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ACRONYMS

ADR	Alternative Dispute Resolution
AHERA	Asbestos Hazard Emergency Response Act
ALJ	Administrative Law Judge
AO	Administrative Order
AOC	Administrative Order on Consent
APO	Administrative Penalty Order
BACT	Best Available Control Technology
BIF	Boilers and Industrial Furnaces
BMP	Best Management Practice
BOD	Biochemical Oxygen Demand
CAA	Clean Air Act
CACO	Consent Agreement/Consent Order
CAFOs	Concentrated Animal Feeding Operations
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFA	Civilian Federal Agency
CFC	Chlorofluorocarbon
CSO	Combined Sewer Overflow
CWA	Clean Water Act
DMR	Discharge Monitoring Reports
DOD	Department of Defense
DOE	Department of Energy
DOI	Department of Interior
DOJ	Department of Justice
EAB	Environmental Appeals Board
EMS	Environmental Management System
EPA	Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-to-know Act
FAA	Federal Aviation Administration
FEMA	Federal Emergency Management Agency
FFCA	Federal Facilities Compliance Act
FFEO	Federal Facilities Enforcement Office
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
FY	Fiscal Year
LDR	Land Disposal Restriction
LEPC	Local Emergency Planning Commission
MACT	Maximum Available Control Technology
MCL	Maximum Contaminant Level
MPRSA	Marine Protection Research & Sanctuaries Act
MSDS	Material Safety Data Sheet
MOA	Memorandum of Agreement
NESHAP	National Emissions Standards for Hazardous Air Pollutants

NETI	National Enforcement Training Institute
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
NPL	National Priorities List
NPS	National Park Service
NSPS	New Source Performance Standards
OC	Office of Compliance
OCEFT	Office of Criminal Enforcement, Forensics, and Training
ODBA	Ocean Dumping Ban Act
OECA	Office of Enforcement and Compliance Assurance
OGC	Office of General Counsel
OPA	Oil Pollution Act
OPPT	Office of Pollution Prevention and Toxics
PCB	Polychlorinated Biphenyls
POTW	Publicly-Owned Treatment Works
PPA	Performance Partnership Agreement
PPG	Performance Partnership Grant
ppm	Parts Per Million
PRP	Potentially Responsible Party
PSD	Prevention of Significant Deterioration
PWS	Public Water System
RACT	Reasonably Available Control Technology
RCRA	Resource Conservation and Recovery Act
RD/RA	Remedial Design/Remedial Action
RECAP	Reporting Enforcement and Compliance Assurance Priorities
RI/FS	Remedial Investigation and Feasibility Study
ROD	Record of Decision
SDWA	Safe Drinking Water Act
SEP	Supplemental Environmental Project
SERC	State Emergency Response Commission
SIP	State Implementation Plan
SPCC	Spill, Prevention, Control and Countermeasure
SWMU	Solid Waste Management Unit
SWTR	Surface Water Treatment Rule
TCR	Total Coliform Rule
TRI	Toxic Release Inventory
TSCA	Toxic Substances Control Act
TSS	Total Suspended Solids
UAO	Unilateral Administrative Order
UIC	Underground Injection Control
USDA	United States Department of Agriculture
UST	Underground Storage Tank
VOC	Volatile Organic Compound
WPS	Worker Protection Standard

1. INTRODUCTION

As it enters the 21st Century, the U.S. Environmental Protection Agency's (EPA) Office of Enforcement and Compliance Assurance (OECA) continues to foster and refine its balanced approach to environmental protection. This balanced approach, which has become the hallmark of environmental protection across the world, combines enforcement with compliance assurance activities to protect all Americans from the threats to our health and environment. In Fiscal Year (FY) 1997, OECA continued aggressively addressing environmental degradation by successfully combining its three primary tools:

- Enforcement actions
- Compliance incentives
- Compliance assistance.

This accomplishments report documents the achievements of the past Fiscal Year in these three areas. These programs and policies work in concert to bring measurable results to the American people--cleaner and healthier air, water, and land.

Again in FY97, the Agency achieved new heights in securing compliance through enforcement from those companies and individuals who degrade the environment and endanger public health. New records were established for penalties assessed against violators. The Agency also continued systematically collecting and reporting on the qualitative impact of its enforcement efforts. Traditionally, EPA measured its success only against enforcement outputs, such as penalties, fines, and cases. However, beginning in FY96, EPA began measuring the positive impact on the environment from each case. In FY97, about one-third of all civil judicial and administrative settlements required the defendants to perform use reduction, industrial process changes, emission or disposal changes, remediation, or removal. As another example of the new information EPA is collecting, for those cases that reported qualitative environmental impacts, the most commonly reported impact was protection of human health and worker protection, followed by ecosystem protection. EPA is working to further improve the reporting of this qualitative information in 1998. Similarly, for those cases reporting quantitative pollutant reductions, the three largest pollutant reductions reported were for contaminated soil, polychlorinated biphenyls (PCBs), and volatile organic compounds.

In addition, as part of its compliance assurance activities, EPA continued to offer compliance incentives to regulated entities to encourage them voluntarily to address noncompliance. The primary incentive--EPA's audit policy--yielded broad results and was invoked by a large number of facilities across the country. This type of activity not only increases compliance and prevents future environmental degradation, but also accomplishes both goals in a more cost-effective manner for the Agency and the regulated community. EPA also developed and implemented several compliance assistance activities, including its compliance assistance centers and numerous compliance-related projects targeted to small businesses. These activities are designed

to provide facilities and municipalities with the tools and knowledge to achieve compliance on their own.

Just as EPA measures the results of its enforcement activities, it also has begun measuring its compliance incentive and compliance assistance activities. Information was collected on the number of facilities who took advantage of the incentives and the resulting net environmental benefit from that acceptance. EPA also, for the second year in a row, tracked its compliance assistance activities through the Reporting on Enforcement and Compliance Assurance Priorities (RECAP) forms, collecting information on the types and numbers of compliance assistance activities conducted by the Agency, as well as the number of entities those activities reached.

This *FY 1997 Enforcement and Compliance Assurance Accomplishments Report* is designed to provide an overview of the significant achievements by EPA's headquarters and regional offices during the past Fiscal Year. Specifically, Chapter 2 presents the FY97 accomplishments from federal enforcement activities, including data on net environmental benefits of enforcement activity, inspections, and administrative, civil, and criminal actions. Also, for the first time, the report includes quantitative data on compliance incentives and compliance assistance activities.

Chapter 3 presents information on the specific activities conducted during FY97, including sector-based initiatives, community-based environmental protection, multimedia or cross-cutting programs, media programs, and self-disclosure. This chapter primarily highlights policies, enforcement or compliance assurance initiatives, and other activities that contributed to the protection of human health and the environment. The activities include both headquarters and regional level activities. Chapter 4 presents information on the performance partnership agreements and grants negotiated between headquarters and the regions. The appendices to this report provide information on traditional enforcement measures over the years and describe significant criminal, civil, and administrative actions taken in FY97.

2. FISCAL YEAR 1997: THE RESULTS

In Fiscal Year (FY) 1997, the U.S. Environmental Protection Agency (EPA) continued its quest toward national environmental improvement by continuing to effectively use its three primary tools--enforcement, compliance incentives, and compliance assistance. In its traditional role of enforcement, EPA again achieved records in actions taken and completed, and penalties assessed and collected. EPA also continued its new efforts to measure the impacts of these actions on the environment. For example, for those cases reporting quantitative pollutant reductions, the three largest reductions were for contaminated soil, polychlorinated biphenyls (PCBs), and volatile organic compounds (VOCs).

Also in FY97, the Agency continued collecting data on its compliance incentive and compliance assistance activities. The collection of such data is now standardized through the Reporting for Enforcement and Compliance Assurance Priorities (RECAP) process. This process allows the Agency, at both the headquarters and regional levels to track the scope and effort of compliance assistance activities conducted. The results are included in this document.

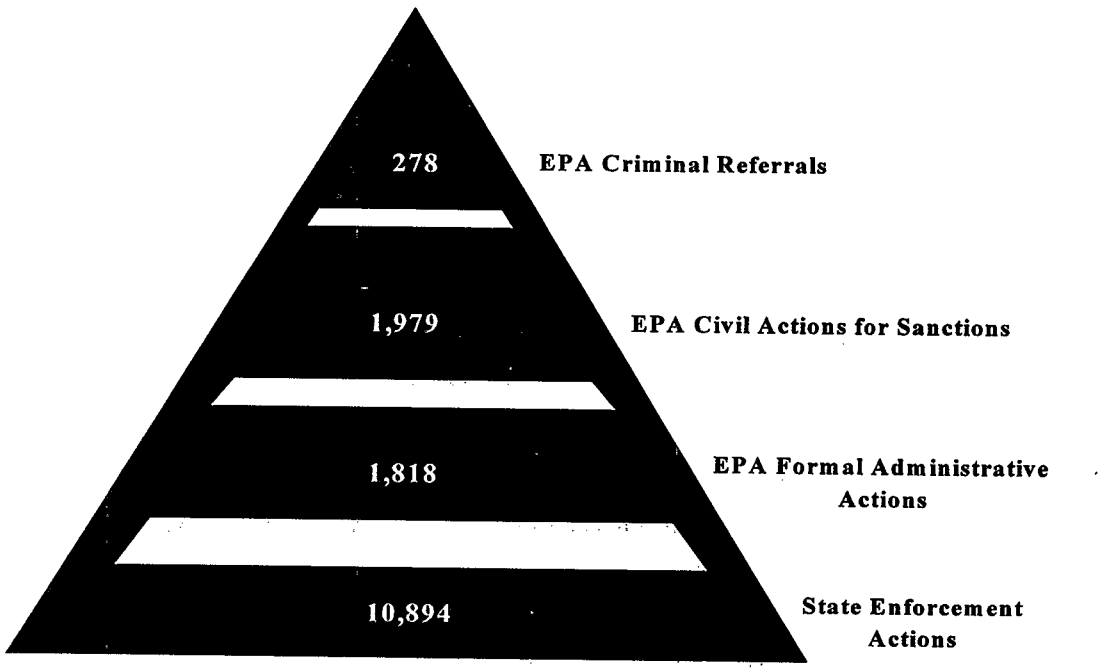
The following sections of this chapter highlight EPA's enforcement programs, as well as its compliance incentive and compliance assistance activities. Regarding enforcement, sections focus on the criminal program, civil administrative actions, and the Superfund program. The enforcement section concludes with a discussion of the impacts of actions on public health and the environment. An overview of EPA's compliance incentives and compliance assistance programs, including a discussion of the Self-Policing Self-Disclosure Policy (Audit Policy) and the RECAP data, follows the enforcement discussion.

2.1 Enforcement

As mentioned, FY97 was another significant year for EPA in terms of its enforcement program. The Agency reached new heights in the number of referrals (704) to the Department of Justice (DOJ), as well as in fines and penalties ($264.4 million). Of the referrals to DOJ, 426 were civil matters and the remaining 278 were criminal matters. Figure 2-1 presents the total enforcement activities taken by EPA and the states in FY97. As shown, the states accounted for 10,894 enforcement actions.

Enforcement continues as the underpinning of EPA's efforts to protect human health and the environment by remedying environmental harm, promoting compliance, and determining noncompliance with the law. Targeting helps assure that compliance monitoring efforts are directed to areas where federal enforcement presence will obtain greater benefit. In FY97, EPA committed significant effort to target enforcement and compliance assistance in specific industrial sectors, as well as media-specific areas.

Figure 2-1. Fiscal Year 1997 Enforcement Activities



2.1.1 Criminal Enforcement

The high level of enforcement activity by EPA's criminal enforcement program during FY97 is reflected in a record number of criminal referrals to DOJ. A total of 278 cases were referred to DOJ in FY97 (the previous highest number was 262 in FY96).

Because of its deterrent effect, incarceration is a key component of the criminal enforcement program. Individuals are more likely to be deterred from criminal environmental misconduct because of the stigma associated with a criminal conviction, as well as potential imprisonment. Those who are convicted and sentenced to jail cannot pass the sentence on as another "cost of doing business;" it must be served by the violator.

In FY97, the number of months of jail time to which defendants were sentenced totaled 2,351 months, compared to 1,116 months in FY96. A total of 322 individual and corporate defendants were charged in criminal judicial proceedings. Over $169 million in criminal fines and

restitution were assessed in FY97, compared with $76.7 million in FY96. Figure 2-2 provides an overview of the major outputs from the criminal enforcement program over time.

The increases witnessed in the criminal program over the years can be attributed, at least in part, to the Pollution Prosecution Act of 1990. This act authorized a number of enhancements to EPA's criminal enforcement program, including increases in the number of criminal investigators to 200 and a commensurate increase in support staff. By the end of FY97, EPA had increased the number of criminal investigators to 199 (compared to only 47 in FY89). This additional investment in agents has yielded significant increases in most key areas of the criminal program, as evidenced by the steady increase in enforcement numbers.

In FY97, EPA began collecting data on the expected environmental benefits of its concluded criminal cases. Information on pollutant reductions, for example, are included in Figure 2-10.

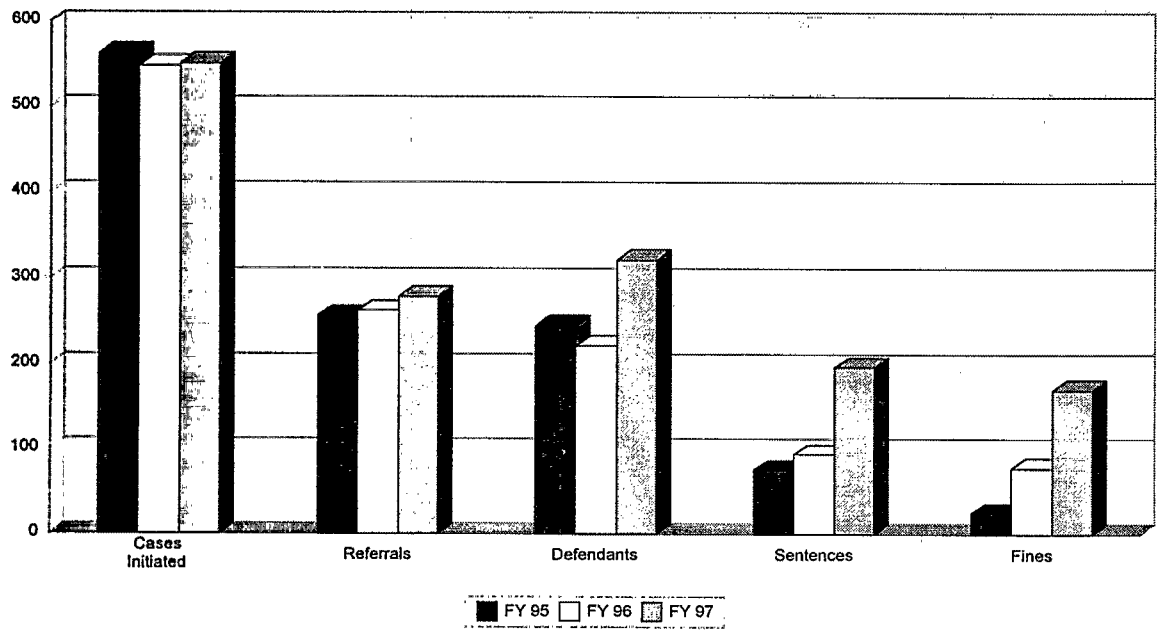
2.1.2 Civil/Administrative Actions

In FY97, enforcement activity in most areas increased from last year. For example, there were 426 judicial referrals, up 44 percent from FY96 (295). (The combined total of civil and criminal referrals is the highest in EPA history.) A total of $46 million in judicial penalties was assessed, down approximately 30 percent from the previous year. (It should be noted that last year's amount of $66.2 million was almost double the amount assessed in FY95.) Approximately $49.2 million in administrative penalties were assessed, which is an increase of approximately 65 percent from FY96. As for other enforcement activities:

- Inspections increased slightly in FY97 from FY96, up to 18,706 from 18,211 (nearly 3 percent)
- Administrative penalty order (APO) complaints increased to 1,313 from 870 (51 percent)
- APO settlements increased to 1,350 from 1,004 (34.5 percent)
- Administrative non-penalty orders increased to 1,818 from 1,186 (53 percent)
- Civil judicial settlements decreased from 292 in FY96 to 274 in FY97 (6.2 percent).

Figure 2-3 illustrates EPA's combined penalties (including criminal, civil, and administrative) over the past three years. Figure 2-4 presents the breakdown of the FY97 formal civil enforcement actions by statute and type of action.

Figure 2-2. EPA Criminal Enforcement: Major Outputs FY95 to FY97



	Cases Initiated	Referrals	Defendants Charged	Sentences (Years)	Fines ($ Millions)
FY 1995	562	256	245	74.0	23.2
FY 1996	548	262	221	93.0	76.7
FY 1997	551	278	322	195.9	169.3

Figure 2-3. EPA's Combined Penalties (including criminal, civil, and administrative)

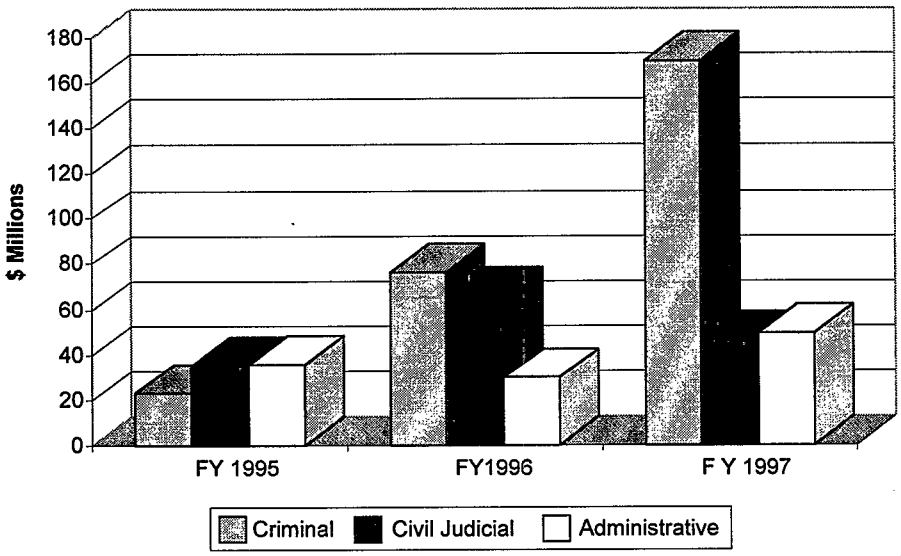
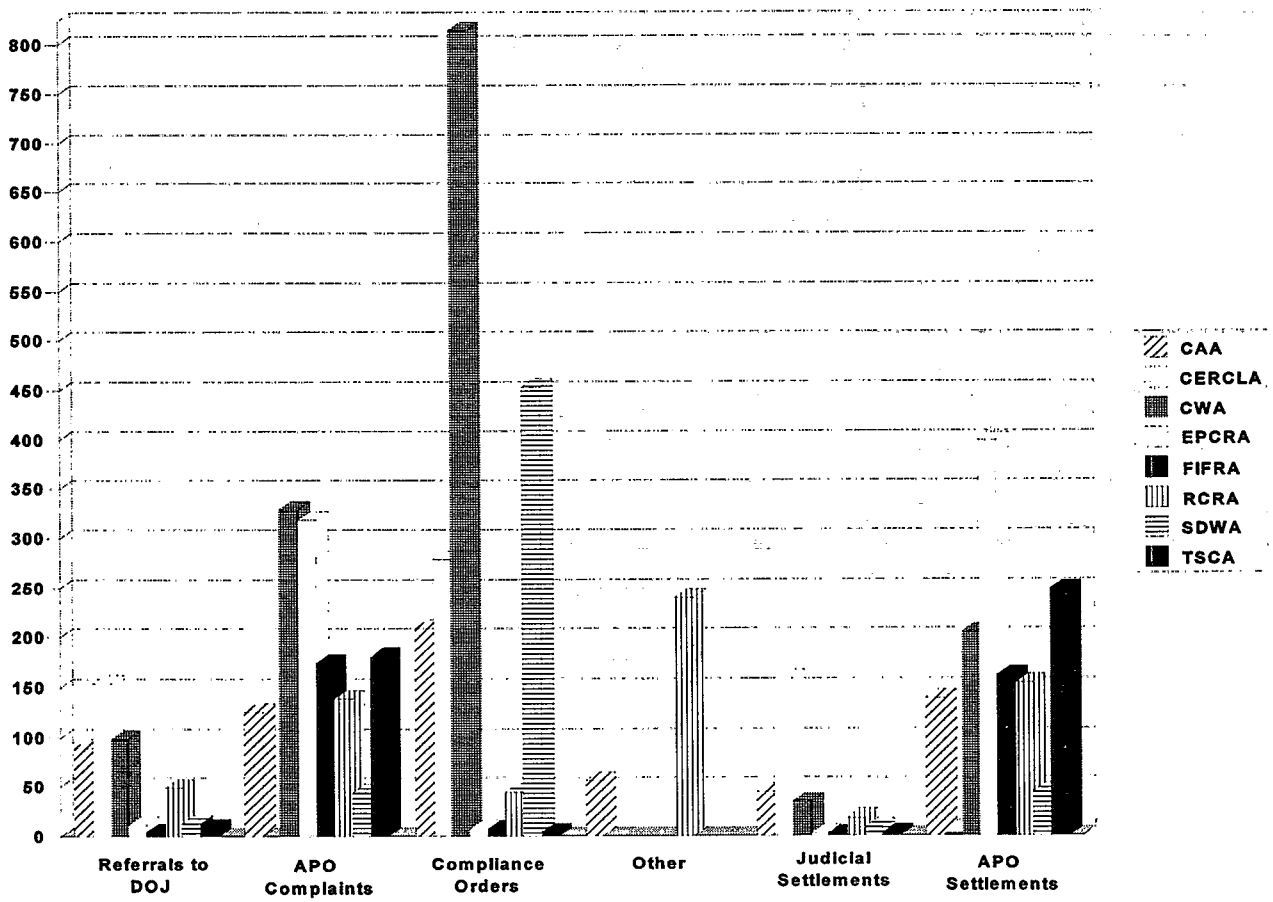


Figure 2-4. Breakdown of FY97 Formal Civil Enforcement Actions by Statute and Type of Action



2.1.3 Superfund Enforcement

In Fiscal Year 1997, the Superfund enforcement program secured potentially responsible party (PRP) commitments exceeding $609.5 million. Of this amount, PRPs signed settlements for an estimated $451.5 million in future response work, and settlements for more than $158 million in past costs. Since the inception of the program, the total value of private party commitments (future and past) is estimated at more than $14.7 billion. PRPs initiated approximately 70 percent of the remedial work at National Priority List (NPL) sites. This remedial work stemmed from:

- 33 consent decrees referred to DOJ
- 10 unilateral administrative orders with which PRPs complied
- 16 administrative orders on consent and consent agreements for response work.

To promote enforcement fairness and resolve small party contributors' potential liability under the Comprehensive Environmental, Response, and Liability Act (CERCLA), the Superfund enforcement program concluded 103 *de minimis* settlements at 29 sites with more than 1,800 parties. Through FY97, the Agency has achieved over 340 settlements with more than 15,000 settlors.

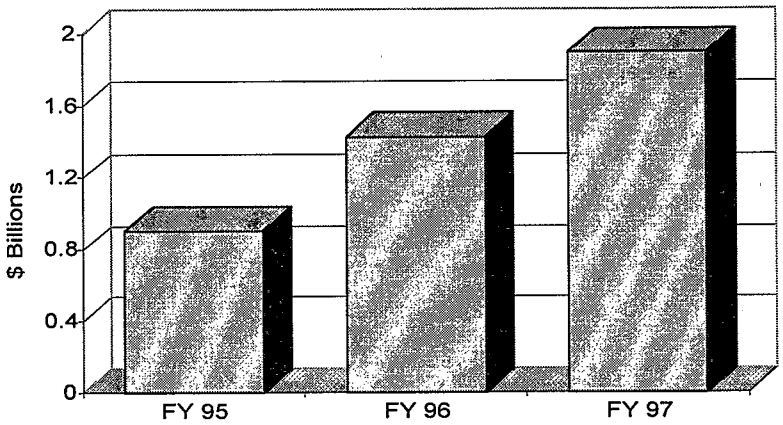
In FY97, the Agency signed a total of 171 administrative orders on consent, and issued 67 unilateral administrative orders. In addition, the Agency achieved a total of 197 new cost recovery settlements estimated at $158.1 million, and collected more than $316 million in past costs associated with prior years' cost recovery settlements. To date, the program has achieved approximately $2.3 billion in cost recovery settlements and collected more than $1.7 billion in past costs.

2.1.4 Impacts of Settlements

For the second year, the Agency collected data on the impact of its enforcement actions in directly addressing risks to public health and the environment. One of the principles underlying EPA's enforcement program is that the violators should pay for and correct the damage caused and prevent future problems, and that the awareness of these actions will encourage others to address their environmental responsibilities without specific detection, violations, and enforcement. In addition to penalties, the two main elements of enforcement settlements are injunctive relief--the actions needed to eliminate noncompliance, correct environmental damage, and restore the environment--and Supplemental Environmental Projects (SEPs)--"extra actions" taken by the violator to benefit the public or the environment, which are taken into account when assessing a penalty.

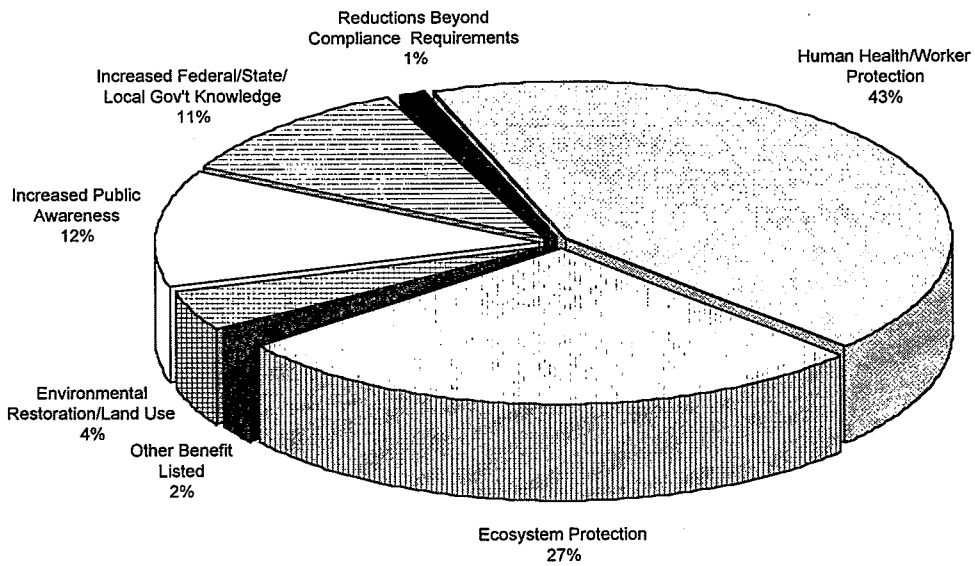
The data show that as a result of EPA enforcement, violators spent a total of $1.9 billion through injunctive relief to correct violations, take additional steps to protect the environment, and clean up Superfund sites (see Figure 2-5). In FY97, EPA conclusion of formal actions included almost 6,200 areas of required injunctive relief. Among the most significant of these actions was a case

Figure 2-5. Dollar Value of EPA Injunctive Relief Enforcement Actions Concluded in FY97



against Pacific Gas and Electric (PG&E). EPA and the State of California secured injunctive relief against PG&E for failing to report key environmental data under the Clean Water Act (CWA) about the effect of its cooling water intake system on marine life near its Diablo Canyon nuclear power station. EPA, California, and PG&E reached a settlement imposing $7.1 million in civil penalties and injunctive relief valued at $6.19 million. The settlement requires PG&E to fund the state's Mussel Watch monitoring program and to implement recommendations of the Morro Bay National Estuary Program Council that are designed to help repair the damage caused by the cooling water intake system to aquatic ecosystems. The specific types of environmental impact of all injunctive relief actions are presented in Figure 2-6.

Figure 2-6. Environmental Impacts of FY97 EPA Injunctive Relief Enforcement Actions



EPA concluded 3,738 formal actions in FY 1997 which had an estimated injunctive relief value of $1.9 billion.

In addition to the injunctive relief, EPA obtained SEPs in 266 cases in FY97 at a value of $85.4 million (see Figure 2-7). The specific types of environmental impacts of the SEPs are presented in Figure 2-8.

Figure 2-7. Dollar Value of SEPs in EPA Enforcement Actions Concluded in FY97

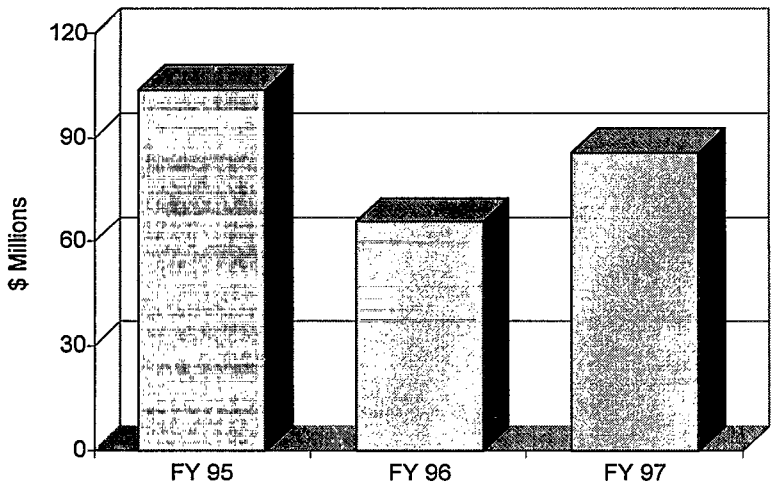
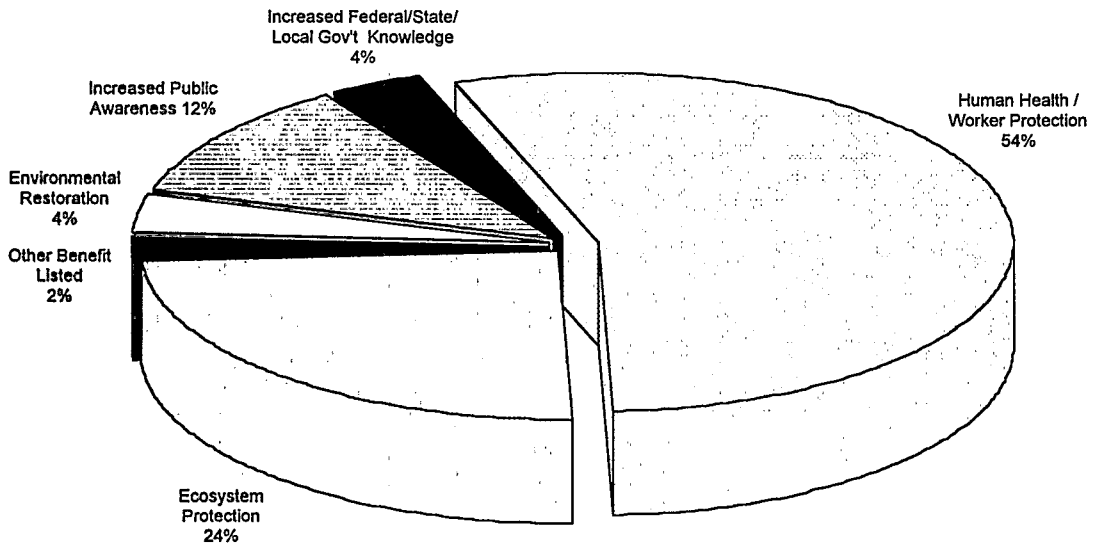


Figure 2-8. Environmental Impacts of SEPs in FY97 EPA Enforcement Actions



EPA finalized 266 cases with Supplemental Environmental Projects with an estimated implementation value of $85.4 million.

All totaled, in FY97, EPA concluded 3,368 enforcement actions that required some change in behavior or the specific conduct of an activity by a violator. Figure 2-9 presents the primary results of those enforcement actions and the specific changes or activities. Concluded EPA enforcement actions required chemical or pollutant reductions or eliminations in almost one-third of all cases. Figure 2-10 presents the impacts for the pollutants with the largest reductions.

The FY97 cases described below are examples of EPA's commitment to actions that result in real environmental gains, protect vulnerable segments of the population, such as children, and protect sensitive ecosystems:

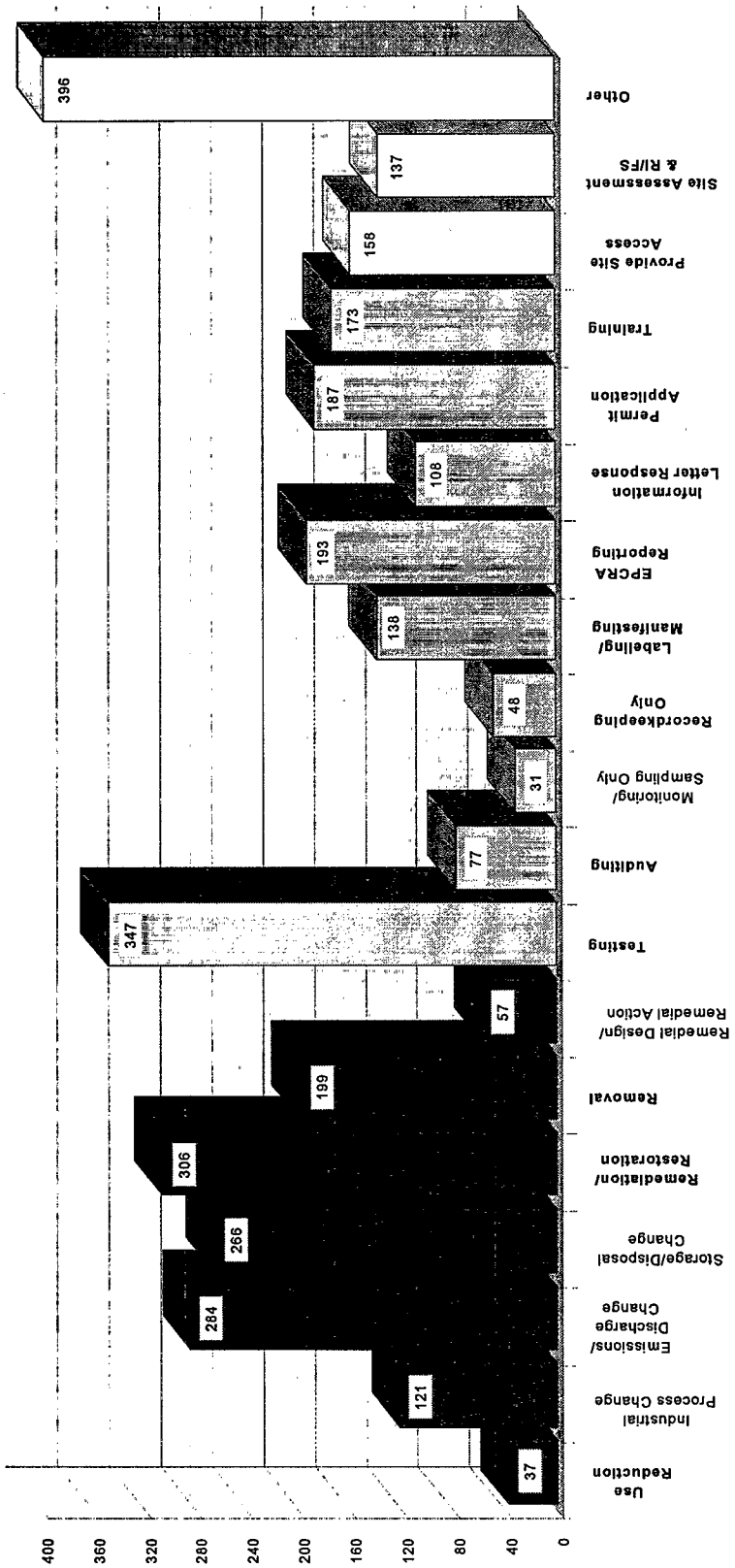
- EPA entered into a settlement with the Tenneco Oil Company. Under the settlement, valued at $3.5 million, Tenneco is resolving allegations that it polluted the ground water of the Sac and Fox Nation (Nation) through years of faulty oil drilling and production practices by building a new water system for the Nation in Oklahoma. This new system will deliver a permanent supply of potable water to the Nation and includes a water recovery system that will allow the Nation to irrigate its lands and promote a farming economy, thereby restoring an area of tribal land damaged by years of oil and gas retrieval. Part of the settlement also includes Tenneco's payment of $1.6 million to the Nation in compensation for past contamination.

- The federal government lodged a consent decree to settle a multimedia enforcement action against the Sherwin-Williams Company to reduce the level of volatile organic compounds (VOCs) that had been emitted for years by a Sherwin-Williams resin and paint plant in southeast Chicago. VOCs contribute to the formation of ground-level ozone, which impairs breathing and can worsen the effects of asthma, chronic bronchitis, and emphysema. Among other things, Sherwin-Williams agreed to retrofit its paint manufacturing equipment to greatly reduce its VOC emissions and pay a $4.7 million penalty.

- Under a consent agreement, Hasbro, Inc., manufacturer of Playskool toys, stopped making false claims that toys treated with an antibacterial pesticide protect children from infectious diseases caused by bacteria, including e-coli, salmonella, and staphylococcus and streptococcus infections. Hasbro agreed to revoke earlier claims and take immediate steps to inform the public by correcting the information through advertisements in printed media and appropriate store and toy placarding, and to pay a penalty of $120,000.

- In connection with a community of minority and low income residents of an El-Paso County Texas border community (known as a "colonia"), the federal government used the emergency powers provision of the Safe Drinking Water Act (SDWA) and secured an agreement with developers to provide an interim (and eventually permanent) supply of fresh drinking water to the colonia residents. Colonias are low income housing projects serving mostly Hispanic residents. They often lack basic water service and a sewage treatment system, increasing the chances that people will become ill from drinking contaminated water.

Figure 2-9. Results of EPA Enforcement Actions Concluded in FY97



Note: Complying actions were reported for 3,204 of the 3,738 FY97 settlements. Multiple complying actions were reported for some settlements.

Figure 2-10. Twenty Largest Reported Pollutant Reductions Resulting From FY97 EPA Concluded Actions

Pollutant	Reduction (in thousands of pounds)
Polychlorinated Biphenyls (PCBs) and PCB-containing material	576,585
Volatile organic chemicals (VOCs)	62,562
Tailings	28,000
Particulate matter	24,555
Carbon monoxide	21,502
Propane	20,014
Polynuclear aromatic hydrocarbons	14,400
Lead	10,297
Oil, crude oil	7,879
Benzene	7,666
Chromium	6,329
Cement kiln dust	6,000
Asbestos	1,055
Toluene	998
Tin	900
Chlordane	701
Chlorofluorocarbons (CFCs)	427
Sulfuric acid	359
Methyl ethyl ketone	277
Contaminated soils (major contaminants are cadmium and lead)	20,084,256

There were 3,738 civil and 127 criminal settlements/conclusions in FY97. In 1,085 of these cases (28 percent), at least one pollutant was listed as being reduced. Of the 1,085 cases that listed a pollutant, an estimate of the amount of the pollutant reduced was reported for 411 cases (11 percent of FY97 settlements).

2.2 Compliance Incentives

In the compliance incentives arena, disclosures under EPA's Self-Policing Policy (Audit Policy) increased dramatically in FY97. At least 185 companies disclosed violations at more than 457 facilities under the auspices of the Agency's Audit Policy. In FY97, EPA reached settlements with 45 companies at 71 facilities, waiving penalties in most cases. To date, 234 companies have disclosed environmental violations under Audit Policy at more than 750 facilities nationally; EPA has settled with 78 companies at 423 facilities.

In the largest case under the Audit Policy, EPA and GTE resolved 600 violations of the Emergency Planning and Community Right to Know Act (EPCRA) and the Oil Pollution Act

(OPA) at 314 GTE facilities in 21 states. The EPCRA violations were for failure to notify state agencies and local fire departments of sulfuric acid filled batteries present at 229 sites, and the OPA violations were for failing to develop Spill Prevention Control and Countermeasures (SPCC) plans for diesel fuel, as required by the CWA. Under the terms of the settlement and the provisions of the Audit Policy, GTE qualified for 100 percent mitigation of the gravity portion of the penalty, paying only an economic benefit penalty of $52,264, and brought all its sites into compliance.

2.3 Compliance Assistance

Compliance assistance consists of information and technical assistance provided to the regulated community to help it meet environmental requirements. It is the most direct approach to ensuring that requirements are widely known and understood within the regulated community. Compliance assistance can also help regulated industries find cost-effective ways to comply through the use of pollution prevention and other innovative technologies. EPA and states provide compliance assistance services in a variety of ways. In FY97, EPA targeted a variety of initiatives at the regulated communities: small business, metal finishers, auto services, dry cleaners, and municipalities, as well as more generalized assistance. As mentioned, for the second year, EPA regions measured their compliance assistance activities through the RECAP process. Regions reported on two primary measurements: 1) number of compliance assistance activities conducted, and 2) number of entities reached through the compliance assistance activities. Within the "number of compliance assistance activities conducted" category, activities were further broken down into six distinct subcategories:

- Telephone assistance
- Workshops, meetings, and training
- Compliance assistance tools
- Electronic or Internet resources
- On-site visits
- Other.

Figure 2-11 presents summary information on compliance assistance. For the purposes of this document, compliance assistance activities have been grouped into three primary areas: 1) sector-based compliance assistance activities, 2) statute-based activities, and 3) miscellaneous activities (i.e., those that are neither sector- or statute-based; examples include community-based initiatives, federal facilities, and general assistance).

Figure 2-11. Compliance Assistance Activities Aggregate for Sectors, Statutes, and Miscellaneous

		Sector-based	Statute-based	Miscellaneous	Grand Total
Telephone Assistance	No. of Activities Conducted	3,615	32,373	7,584	**43,572**
	No. of Entities Reached	3,397	34,430	5,507	**43,340**
Workshops, Meetings, Training	No. of Activities Conducted	103	746	100	**950**
	No. of Entities Reached	49,518	47,630	3,270	**100,410**
Compliance Assistance Tools	No. of Activities Conducted	420	1,530	60	**1,990**
	No. of Entities Reached	8,020	44,850	613	**53,480**
Electronic or Internet Resources	No. of Activities Conducted	586	70	35	**700**
	No. of Entities Reached	65,260	20,670	2,110	**88,020**
On-Site Visits	No. of Activities Conducted	954	1,870	140	**2,960**
	No. of Entities Reached	870	1,040	215	**2,120**
Other*	No. of Activities Conducted	164	1,990	83	**2,230**
	No. of Entities Reached	14,460	71,530	12,300	**98,280**

Note: ***The above data reflect totals of regional compliance activities. In some instances (e.g., where workshops did not require formal registration), regional estimates are included.***

* Other activities include preparation of newsletters and articles to trade publications.

3. FISCAL YEAR 1997: THE ACTIVITIES

In FY97, U.S. Environmental Protection Agency (EPA) offices at both the headquarters and regional levels conducted significant enforcement and compliance assurance activities that contributed to the protection of human health and the environment. These activities ranged from enforcement initiatives to compliance assistance to policies and voluntary incentives. This chapter is organized into five sections that describe significant activities at both the headquarters and regional levels. For example, EPA has developed compliance and enforcement strategies for specific industry sectors that warrant priority attention. Section 3.1 describes these strategies and resulting activities. For FY97, EPA identified three national priority sectors and ten significant sectors. These sectors were selected as priorities for several reasons, including high noncompliance rates and high-volume Toxic Release Inventory (TRI) chemical releases. Designation as an EPA priority sector means these sectors receive special emphasis, both in terms of compliance assistance and enforcement.

Section 3.2 describes community-based environmental protection (CBEP) activities. In FY97, EPA developed multimedia enforcement and compliance assistance strategies for environmental and noncompliance problems associated with particular communities or places, including ecosystems and other natural resource areas. Community-based approaches, which provide opportunities to address environmental justice concerns, have proven effective in facilitating collaborative planning and involvement with the people living in those communities.

In addition to the special initiatives and media programs, EPA has several initiatives ongoing that are multimedia in nature and cut across several other programs. These activities are presented in Section 3.3.

Section 3.4 discusses special accomplishments and initiatives within EPA's traditional media programs. In FY97, EPA continued its media-based enforcement and compliance activities in conjunction with other special initiatives to ensure the best protection of human health and the environment. Finally, Section 3.5 presents information on facility self-disclosures under EPA's Audit Policy.

3.1 Industry Sector Priorities

In FY97, EPA identified three industrial sectors for priority attention: dry cleaners, petroleum refineries, and primary nonferrous metals. In addition, EPA established ten significant sectors: 1) agricultural practices, 2) automotive service and repair shops, 3) coal-fired power plants, 4) industrial organic chemicals, 5) iron and basic steel products, 6) mining, 7) municipalities, 8) plastic materials/synthetics, 9) printing, and 10) pulp mills. EPA selected these sectors by considering multiple factors, including industry compliance history, high volume TRI releases, significant cross-regional impacts, and institutional sector-based expertise. This section highlights both national and regional sector priorities.

To better understand the various industrial sectors, in FY97, EPA added nine new notebooks to its Sector Notebook Series, bringing the total in the series to 27. The notebooks contain a variety of information for a particular sector, including national distribution of facilities, process descriptions, waste releases, pollution prevention opportunities, applicable statutes and regulations, compliance and enforcement history, pollution prevention opportunities, and a contact directory. The notebooks are virtually the only government publication in which all of these cross-cutting environmental issues are presented in a single document. The notebook series is proving especially useful to federal and state regulatory officials, small business service providers, community groups, educators, international organizations, and foreign governments. The notebooks direct decision makers toward more holistic multimedia solutions to environmental problems. Since the project's debut in 1995, more than 110,000 documents have been distributed in hard copy and over the Internet.

3.1.1 National Priorities

Dry Cleaners

Dry cleaners were selected as a priority sector because they result in significant multimedia releases to the environment and have the potential to significantly impact human health and the environment. For example, in Region 2 the 5,000 dry cleaners emit in aggregate 62,500 tons per year of perchloroethylene (perc), a possible carcinogen, into the air; discharge 16 tons per year of perchloroethylene in the wastewater; and generate more than 30 tons of solid waste per year. Dry cleaners pose additional challenges because the majority of dry cleaners are small businesses that may not be fully aware of environmental regulations. This problem is compounded because language barriers, in many instances, complicate outreach and educational efforts.

At the national level, EPA conducted two significant compliance assistance projects:

- ***Korean Dry Cleaners Mentoring Program*** - EPA, Virginia, Maryland, the District of Columbia, and the Korean Dry Cleaners Association of Greater Washington have partnered to address the needs of the Korean perchloroethylene dry cleaning community. These partners have developed a mentoring program where experienced dry cleaners (coaches), who have been trained by EPA and the states, assist less sophisticated dry

cleaners to increase their understanding of and compliance with environmental requirements. Dry cleaners from 400 stores have attended group multimedia inspection demonstrations. To date, 86 dry cleaners have been inspected by coaches and have passed these multimedia inspections by demonstrating compliance with an inspection checklist. Based on its experience, the trade association believes that dry cleaners who have participated in the mentoring program have a 20 percent higher compliance rate than other dry cleaners in the area.

- ***Compliance Video for Dry Cleaners*** - EPA developed a two-part video in both English and Korean that covers multimedia environmental regulations for perchloroethylene dry cleaners. EPA has partnered with states, technical assistance programs, dry cleaning trade associations, and other assistance providers to distribute and help evaluate the effectiveness of the video. EPA will be measuring the effectiveness of the video as a compliance assistance tool and as a mechanism to change dry cleaners' understanding of environmental requirements and their behavior through a customer satisfaction survey and through working with the other assistance providers and trade associations to evaluate the video's impact.

The following activities characterize compliance and enforcement efforts focused on dry cleaners within EPA's regions. As shown, the regions used a combination of traditional activities and compliance assistance:

- Region 1's air program conducted 27 inspections of dry cleaners in FY97. Five facilities had violations and will be reinspected in FY98. Nineteen of the 27 inspections were reinspection of facilities with past problems.

- Region 2 held four multimedia seminars for the Korean dry cleaner community and participated in six multimedia dry cleaner seminars sponsored by the states. The seminars informed more than 1,200 dry cleaner owners/operators about the applicable federal and state requirements, EPA's compliance incentive policies, and other applicable programs. In addition to holding outreach seminars, the region provided on-site compliance assistance at 70 dry cleaning facilities.

- Region 2 conducted 100 air compliance inspections of dry cleaning. Based on the region's inspections, only eight percent of the regulated facilities were in compliance with the Clean Air Act (CAA). As a result, Region 2 issued 22 administrative orders to dry cleaning facilities in FY97.

- In Region 3, a total of 75 inspections by EPA and 230 inspections by the states were completed in FY97. While many sources were not in full compliance, violations were largely found in the areas of recordkeeping and reporting, as opposed to the lack of pollution control devices.

- Region 3's air program also gave presentations, assisted with the development of a video of a mock inspection, wrote feature articles that appeared in Pennsylvania Dry Cleaners and Launderers Association publication and the Pennsylvania Small Business Assistance Program AIRHELP newsletter, and handled numerous calls for information.

- During FY97, Region 4 conducted 73 compliance assistance dry cleaning inspections and continued to utilize the *Plain English Guide. . .*, which is an in-depth explanation of the regulations. Copies of the requirements were given to the regulated community during these inspections, as well as mailed to anyone who requested them.

- Region 5's Resource Conservation and Recovery Act (RCRA) program along with its air program, worked with the Southeast Michigan and Chicago teams to offer compliance assistance to dry cleaners. Illinois EPA participated and provided the region with a list of facilities that require follow-up after they were offered compliance assistance. The region conducted compliance inspections and found paperwork violations.

- Region 6 conducted more than 300 inspections/compliance assistance visits in environmental justice areas with emphasis in the Houston/Galveston and Dallas/Ft. Worth areas. Compliance assistance tools were distributed during the visits, including a video that was developed through a contract with a small business entity. The region has noted an increase in submittals of registrations, an increase in conversion to dry-to-dry equipment, and an increase in the use of drop-off sites.

  Inspections were conducted by Region 6's air and RCRA program as part of a multimedia enforcement effort. A total of 30 to 40 targeted dry cleaners was inspected. Three cleaners were found to have a substantial number of RCRA violations.

- Region 7 focused on identifying potential non-notifying facilities in the dry cleaning sector. In conjunction with the FY97 inspections and from on-site responses as to what type of compliance assistance was helpful, the team developed a multimedia compliance document to address RCRA, air, and underground injection control (UIC) programs.

- All six states within Region 8 conducted outreach activities for dry cleaners through Small Business Assistance Programs funded from the CAA Title V fees program. Outreach has been by workshops, mass mailers of guidance materials, and individual visits.

- Region 9 funded the local non-profit group Ecology Action. Ecology Action will be hosting a series of workshops for San Francisco Bay Area dry cleaners. The dry cleaners will be introduced to alternative technologies for cleaning garments professionally and will receive the opportunity to view wet-cleaning processes firsthand.

- Region 9's support for the state/local compliance assistance efforts resulted in many of its regional dry cleaning facilities voluntarily choosing to switch from using hazardous solvent cleaners (such as perchloroethylene) to non-hazardous solutions.

Petroleum Refineries

Petroleum refineries generate a wide variety of hazardous wastes, effluents, and air emissions in large quantities. Large volumes of wastewater containing many organic chemicals are routinely discharged from refineries, and PCB transformers commonly are found at refineries. At the national level, EPA conducted the following significant compliance assistance project:

- ***Compliance Tools For the Petroleum Sector*** - EPA developed two compliance assistance tools for the petroleum sector. The first, *Petroleum Refining MACT Standard Enabling Document,* was developed to increase understanding of the standard and present pertinent information regarding the Petroleum Refining National Emission Standards for Hazardous Pollutants (NESHAP) rulemaking in a simple and easy-to-understand format. The second document, *Benzene NESHAP FAQ Handbook for Subparts FF and BB,* was developed to improve understanding of Subparts FF and BB, which cover benzene waste and transfer operations. Both documents are available via the Internet at http://es.epa.gov/oeca/metd/ref.html/.

The activities described below characterize compliance and enforcement efforts in EPA's regions:

- In FY97, the largest petroleum refining facility in the nation (located in Region 2), the Hess Oil Virgin Islands Corporation (HOVIC), with a processing capacity of 500,000 barrels per day, pleaded guilty to criminal violation of RCRA following a multi-year investigation and prosecution.

- Region 3 completed multimedia inspections at two major refineries, the largest TRI emitters. The region reached a settlement with Sun Refinery for violations, and obtained a supplemental environmental project (SEP) to restore wetlands and purchase a hazmat truck for the City of Philadelphia. The RCRA program conducted four Subtitle C inspections at petroleum refining facilities. Two formal actions were issued.

- In Region 4, 27 National Pollutant Discharge Elimination System (NPDES) permitted refineries were identified at the beginning of FY96, and states were encouraged to inspect as many of these facilities as possible by the end of FY97. The states and Region 4 inspected 70 percent of the facilities, including 100 percent of the majors. As a result, four notices of violation (NOVs) and three administrative orders (AOs) were issued.

- Region 5 conducted seven inspections of petroleum refineries during FY97, including four inspections as part of multimedia efforts. Six NOVs / findings of violations (FOVs) were issued to petroleum refineries and seven cases were referred to DOJ, including four

as part of multimedia enforcement actions. These cases included major emissions violations of state implementation plans (SIPs), new source performance standards (NSPS), NESHAPs, and prevention of significant deterioration/new source review (PSD/NSR) violations.

- Approximately 15 refineries were inspected by Region 6 in FY97. Twelve were found to have potential violations ranging from leaking components to failure to performance test flares and benzene issues. All are in varying stages of enforcement action development with four administrative penalty orders (APOs) and three civil referrals to DOJ, one AO, three consent agreements/consent orders (CACOs), and three civil judicial conclusions completed to date.

- Region 6 also conducted one polychlorinated biphenyl (PCB) inspection and one TSCA Sections 5 and 8 inspection. The region maintained a highly visible TSCA enforcement presence among the refinery sector with a total of three administrative enforcement actions at refineries.

- Region 7 has three active refineries that are all located in the State of Kansas. During FY97, the team placed an emphasis on the Texaco refinery, at which NEIC conducted a multimedia inspection. In February 1997, the refinery developed a risk management plan as a result of a SEP.

  In settlement negotiations with Farmland Industries, Inc., in Coffeyville, KS, Farmland agreed to certify compliance with all requirements of CAA, RCRA, and EPCRA in consent agreements. Along with agreeing to resolve all violations now known to EPA, Farmland agreed to implement several SEPs at the refinery, which will cost approximately $2.2 million. Farmland agreed to install a new flare scrubber to reduce the likelihood of accidental releases of hydrofluoric acid into the neighboring community and to install several safety upgrades that result in several environmental benefits. The benefits to the environment include the protection of human health, worker protection standards, and the protection of the ecosystem. Farmland also agreed to install controls to reduce the amount of solids entering the facility's sewer system and thereby prevent the generation of RCRA hazardous waste. The SEP involved both pollution reduction and pollution prevention.

- Region 8 organized a petroleum refinery sector team of nine staff members representing programs having applicable regulations at refineries. The team's first effort was to develop a targeting data matrix by researching risk, and to evaluate environmental justice and community-based environmental attributes. In coordination with Region 8's Environmental Justice Program, an Interim Environmental Justice Inspection Protocol was implemented for all areas surrounding refineries.

  During FY97, six different programs conducted a total of 13 EPA inspections and 32 state inspections at petroleum refineries. In addition, the UIC Program completed

Shallow Injection Well Inventory Request Forms for refineries. The UIC program found no wells.

As part of an outreach effort, the Region 8 staff continued to meet with the Rocky Mountain Oil and Gas Association (RMOGA) Refinery Committee. Two meetings were held during 1997. The refining industry was introduced to EPA's newer compliance assurance projects and efforts including environmental justice (EJ), Project XL, and the National Compliance Study.

- Region 9 organized an Oil Refinery Roundtable with representatives from industry, local governments, and EPA to confer on three major categories of refinery pollution: hazardous air pollutants, criteria air pollutants, and wastewater sludges. Eventually, the roundtable participants decided to focus on wastewater sludges because this is an area where there is the greatest potential for using pollution prevention. As the result of a second roundtable, an erosion control project which is a collaborative effort among industry, local government, and EPA emerged from this discussion. A group of oil refineries working with an erosion control expert conducted a study examining the use of erosion control methods as a means of pollution prevention. The team working on this project is now collecting data and organizing site visits to refineries.

Primary Nonferrous Metals

Production operations of primary nonferrous metals are subject to a number of regulations, including those imposed by RCRA, CWA, and CAA. The following activities characterize EPA regional compliance and enforcement efforts focused on primary nonferrous metal facilities:

- Region 3's RCRA program conducted two Subtitle C inspections at primary nonferrous metals facilities. Further enforcement action is being evaluated for any facilities with continuing noncompliance. In addition, Region 3 investigated 15 facilities. Of these facilities, seven were found in violation and follow up enforcement actions have been initiated and/or finalized for all seven facilities.

- Region 4 conducted five inspections at primary nonferrous facilities. The findings of these inspections will or have already resulted in one formal enforcement action for significant noncompliance (SNC) and two informal actions for significant violations (SV).

3.1.2 Significant Sector Priorities

Agricultural Practices

Concentrated Animal Feeding Operations (CAFOs) are a priority within the Office of Enforcement and Compliance Assurance (OECA). In FY97, OECA initiated development of a CAFO Compliance and Enforcement Implementation Plan. A workgroup consisting of state,

EPA, and United States Department of Agriculture (USDA) representatives provided the basis for EPA's draft CAFO Strategy. The draft establishes a five-year CAFO inspection goal and specifies the development of individual state CAFO Compliance and Enforcement Strategies. The final Implementation Plan is planned for early 1998. OECA initiated a number of activities in 1997 to support the Plan's goals. A primary activity was a CAFO National Meeting in Kansas City, which brought together 42 states and all ten EPA regions.

In conjunction with the OECA national activity, several regions also targeted agricultural practices in FY97. While CAFOs were a primary focus within the agriculture sector, there were also other agriculture-related activities:

- Region 4 focussed inspections at facilities that manufacture pesticides. The states and Region 4 inspected 67 percent of the 129 facilities, including 100 percent of the majors, during FY96/97. As a result, 34 NOVs, two AOs, and two penalty orders were issued.

- Region 6's emphasis on CAFOs was on the NPDES general permit and its implementation. Six EPA and 24 state CAFO inspections were conducted in FY97 to determine if facilities were compliant with the CAFO general permit. Inspections were held on a "spot check" basis in Texas and on a scheduled basis in New Mexico. Oklahoma inspected a select number of the major facilities and determined the compliance status. The region continues to improve its knowledge of the numbers of facilities by the improvement of the database in all states.

- During 1997, Region 7 states took 26 enforcement actions against feedlots for water quality-related violations.

- Region 7's Agriculture Sector Team partnered with the National Agriculture Compliance Assistance Center (Ag Center) to develop a multimedia pollution prevention compendium. The compendium includes written materials developed or distributed by EPA that focus on pollution prevention and agriculture. The region also produced the "Agricultural Pollution Prevention" fact sheet, listing EPA's available materials and formatting the fact sheet for Internet distribution; it also developed a list of the "best" agricultural pollution prevention sites on the Internet.

- In February 1997, Region 9 initiated a Regional Agriculture Team to complement the Agriculture Initiative team by developing a Regional Agriculture Strategy and incorporating agriculture pollution prevention principles into core agency programs. Region 9's Agriculture Initiative Team has initiated Biologically Integrated Farming Systems projects with other high environmental priority commodities/crops for California, including walnut, cotton, tomatoes, and wine grapes These crops use large amounts of targeted pesticides and fertilizers with potential impacts to water quality, air quality, and human health.

The Pesticides Program continued to use 16 cooperative agreements with states, tribes, and territories to support enforcement programs in Region 9. Each of these 16 entities conducted traditional pesticide use inspections and follow-up investigations to determine compliance with local, state, tribal, and federal pesticides law. Appropriate enforcement actions were taken and compliance assistance provided when necessary.

- Through the Region 10 CAFO Whatcom County Initiative, the region conducted NPDES inspections at 67 targeted facilities; six were issued penalties, three were designated as significant contributors of pollutants, six were issued certificates of merit, and 52 were issued warning letters. Whatcom County was the first county selected for inspection because it has approximately 280 CAFOs, the largest concentration of CAFOs in the state. Other activities conducted as part of this initiative included several outreach activities, including a presentation to Appraisers and Lenders of Washington State.

  This initiative succeeded in several ways. First, it was a success because of the quick enforcement response by the Agency. Enforcement response time (from inspection date to enforcement action issuance) was less than two months in all cases. The response time for issuance of penalties ranged from seven days to 55 days.

  Second, the initiative was determined to be a success based on anecdotal information received regarding the numbers of facilities now seeking assistance. The National Resource Conservation Service (NRCS) in Whatcom County provides technical assistance to producers. NRCS receives an average of three requests for assistance per month. However, after the first week of inspections, NRCS received 83 requests for assistance.

  Finally, another indicator of success is the level of awareness that the producers as well as citizens now have about CAFO requirements and concerns. This is illustrated by the number of articles that has been written on CAFO activities in local newspapers. This increased level of awareness also is illustrated by an increase in the number of phone calls received by Region 10 from citizens concerned about discharges from CAFOs.

Auto Service/Repair

The auto service/repair sector is a significant priority sector because of the number of potential threats to the environment, including chloroflourocarbon (CFC) and volatile organic compound (VOC) emissions, petroleum releases, hazardous waste, Class V UIC wells, and PCB-contaminated oils.

At the national level, OECA completed a multi-program, consolidated checklist for automotive repair facilities that is being made available to both inspectors and automotive shop owners. The checklist highlights key federal environmental requirements that affect an automotive shop owner. An inspector can use this as a quick screen for EPA program requirements. The automotive shop owner can use this as a self-audit and educational tool to quickly determine if

the shop is complying with these key requirements. The checklist is available via the Internet at http://www.ccar-greenlink.org/checklist.html/.

At the regional level:

- Region 1's New England Environmental Assistance Team (NEEATeam) conducted 42 on-site visits to auto repair and body shops in New England. More than 30 of these shops agreed to test the two-page compliance checklist designed by OECA. Compliance and pollution prevention information was provided and the visits were well received overall. The NEEATeam conducted three auto workshops during the past year and also wrote a technical bulletin that provides compliance and pollution prevention information for the industry. In addition, the NEEATeam also helped the Northeast Waste Management Officials' Association (NEWMOA) develop the *Municipal Officials' Practical Auto Repair Shops Checklist*. This checklist will be distributed at future workshops for municipal officials.

- In FY97, Region 2 conducted 24 multimedia and 21 sampling inspections at auto body shops. Twenty facilities were found in violation of state requirements. Region 2 also conducted 47 underground storage tank (UST) and 94 UIC inspections in FY97. The region received a total of 34 UIC closure plans and issued two UIC program AOs for a total of $19,000 in penalties. Region 2 issued 14 field citations to service station owners for violations of UST release detection requirements. A complaint was issued against the owner/operator of 22 service stations for $601,011 in penalties. A case involving the owner of 30+ service stations for violations of UST release detection and closure requirements was referred to DOJ.

  Region 2's UST program worked with New York State Department of Environmental Conservation to conduct 11 outreach sessions in New York. A total of 1,425 members of the regulated community attended these sessions which focused on the 1998 UST upgrade requirements, as well as release detection. One outreach session was held in New Jersey in concert with the New Jersey Department of Environmental Protection. Additionally, the UST program responded to 350 inquires from the regulated community on service station-related issues.

- Region 3 completed a telephone survey on compliance issues in the auto repair/service sector in S/SW Philadelphia in FY97. It also continued its multimedia compliance assistance activities, including holding an auto body environmental workshop; pulling together contact lists for the national auto service sector compliance assistance center; developing an overview of regulations covering auto service stations with state and EPA contacts as appropriate; and participating with headquarters in on-site assistance visits in Philadelphia.

- In Region 4, the activities associated with this initiative have been compliance assistance visits (CAVs), at which inspectors conduct voluntary audits at auto repair shops. In

FY97, the region completed a total of 43 CAVs and is currently in the process of notifying the facilities of their requirements to comply and the length of the corrections period.

- Region 7 conducted an initiative to determine the compliance status of Kansas City, MO, auto salvage dealers with CFC requirements. Fourteen businesses were inspected with two receiving administrative complaince orders. By providing verbal compliance assistance and written information to the businesses, all but one of the 14 businesses are now in compliance.

  Region 7 also implemented a region-wide investigation and compliance assistance project to address the use of an unapproved refrigerant being used as a substitute for CFC-12 in motor vehicle air conditioning systems (MVACS). The unapproved refrigerant being installed in MVACS is known as HC-12a® and Duracool. Region 7 sent 20 information request letters to individuals believed to be using this product. Based upon evidence of violations resulting from our information request, Region 7 issued seven APOs. Also, 100 letters have been sent providing information to individuals either using, selling, or trying to prevent the use and sale of this product. The official EPA brochures on this product were provided to over 150 participants at two seminars.

  In addition, Region 7 conducted an inspection of four auctioneers suspected of selling R-12 refrigerant to uncertified technicians for automotive use. The sale of refrigerant to either users in the automotive sector or users in the heating and air conditioning sector is regulated under the CAA. Section 114 letters requiring submittal of information were sent as follow up to the inspections. As a result, each of the four entities agreed to sell only to certified technicians, improve their current recordkeeping practices, and to share information on the regulations at their monthly Missouri Auctioneer's Association Meeting, thereby reaching hundreds of affected parties. Although no enforcement actions were taken, compliance was achieved as well as outreach to a broader segment of this sector.

- Region 8 participated in a partnership with industry and Front Range Community College for the creation, maintenance, and promotion of a compliance assistance Internet homepage. The purpose of this homepage is to translate complicated environmental laws into everyday language that the normal business person can understand, and give that person associated information on educational opportunities. Although the initial focus of the information was the automotive service industry, the audience has expanded to include several other industries and environmental information in general. During FY97, there were 58,003 website hits, a large percentage of which has been to obtain automotive service sector information.

- Region 8 personnel also have made presentations at trade shows and meetings during FY97 that were attended by approximately 45,900 people, all of whom own or manage

automotive service industry businesses. The region also conducted compliance assistance audits at auto service facilities.

- Region 9 conducted four underground storage tank compliance inspections (three state, one on Indian lands) and 13 compliance assistance inspections, all on Indian lands. Seventy-eight percent (133) of the air program's FY97 inspections were conducted as a part of Region 9's automotive air conditioning activities.

- Training was provided on how to do a CFC inspection by Region 10 to EPA and state inspectors. Students were cross-trained to do both respective program and auto service shop inspections. This training has resulted in an increased field presence. In FY96, about 80 inspections were completed, while in FY97, about 300 were completed.

Coal-fired Power Plants

Region 8's RCRA program (EPA and states combined) performed comprehensive evaluations on 33 of the 39 coal-fired power plants identified for this sector. Other than one minor violation of labeling requirements, none of the power plants was found to be in violation of the RCRA requirements for their generator status. During the FY96-97 study period, either EPA or the state air program inspected each coal-fired power plant. Review of excess emission reports showed high monitor downtime or excess emissions at 12 of the 39 facilities. Region 8's EPCRA program worked with the state agencies to comprehensively evaluate 68 percent of the power plants. Comprehensive evaluations consisted of determining whether annual inventory reports of hazardous chemicals above designated thresholds had been submitted.

Industrial Organic Chemicals

Facilities in this sector use and generate a wide range of chemicals though a variety of processes. Depending on the raw materials, processes, and equipment in use, releases may occur to all media. For example, this industrial sector has traditionally been problematic for the EPCRA program in the areas of non-reporting and data quality. In addition, PCBs are commonly found in production equipment used at these facilities.

In Region 2, one RCRA NOV was issued and three enforcement actions were taken under TSCA. Based on the region's two-year effort in this industrial sector, it is evident that the rate of noncompliance is very low. In Region 4, there were four RCRA inspections targeted at industrial organic chemical facilities that resulted in the determination of three SVs and one SNC. In addition, ten inspections conducted in support of CBEP activities resulted in the discovery of two SVs.

Region 5 completed a total of four inspections, three in Illinois (primarily in the Chicago metro) and one in Ohio. The inspections were used as training tools for federal, state, and local staff to establish methods for conducting HON inspections. The inspections investigated all aspects of

the HON including applicability, storage tanks, transfer racks, process vents, and leak detection and repair.

Iron and Basic Steel Products

Region 4 conducted three inspections at iron and steel facilities, and two facilities were identified as SVs. Region 5's activity in the iron and steel sector focused on enforcement. Seven steel mills were inspected in FY97, resulting in four NOVs and four referrals. The inspections covered all the major steel mill sources (coke plant, by-products recovery plant, blast furnaces, and basic oxygen furnace [BOF] shops). The enforcement actions involved several pollutants (particulate matter [PM_{10}], SO_2, and benzene) and several regulations (SIP, NSPS, and NESHAP). In addition to the inspections, the daily coke battery reports submitted to the region on a monthly basis were used to monitor compliance with the coke oven NESHAP, as well as with SIP limitations. A major settlement with LTC Steel was achieved, resolving violations at its coke plant. The settlement included a cash penalty of $1.25 million and a SEP worth $1.8 million. Reductions in pollutants from the injunctive relief and SEP include 898 tons per year PM_{10} and 45 tons per year VOC.

Region 5's mini-mill initiative was very active in FY97. Out of a universe of 22 mini-mills, nine multimedia inspections were completed, eight self-audits were received, and two self-disclosures were received and reviewed.

Mining

The activities performed by Region 8 in FY97 for the metal mining facilities included universe identification and comprehensive evaluation of select mining facilities. The universe identification consisted of searching various databases to determine which facilities in Region 8 were metal mining facilities. Each program verified the compliance status of the selected facilities through existing data and file reviews to the extent possible for their media. Following the initial review of existing data, the region attempted to gather further data from: 1) the states through meetings/phone calls to discuss the facilities; 2) the facilities through phone calls and information requests; and 3) inspections. In addition, various activities were performed related to inspections at mines and ongoing enforcement actions against mines.

In FY97, Region 8 referred two Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) §107 actions and concluded ten CERCLA AO/settlement actions at mining-related sites. The region also used alternative dispute resolution (ADR) to facilitate resolution of technical and enforcement issues at two mining sites in Utah.

The region's NPDES program conducted a multimedia (drinking water, NPDES, and Oil Pollution Act [OPA]) inspection at the TVX Mineral Hill mine. This inspection resulted in an NPDES APO, which settled for $125,000. The NPDES program also issued an APO to the TVX Mineral Hill mine for failure to have an SPCC plan signed by a registered professional engineer.

This APO was settled for a $5,000 fine. The NPDES program also offered technical assistance to TVX Mineral Hill mine to help it come into compliance with the CWA and the SDWA.

Region 9 conducted CWA compliance evaluation inspections for a number of mines in California and Arizona and continued work on active enforcement cases. This included referring two cases to DOJ covering inactive mercury mines in California that were discharging metals in excess of their NPDES permit limits and developing other enforcement actions.

Mining-related OPA compliance results in Region 9 included: 1) SPCC compliance inspections, remediation technical assistance, and assistance with development of an SPCC training program for Peabody Western Coal Company (PWCC) on Navajo lands; 2) inspection and follow-up work on the P&M McKinley mine; 3) assistance to the BHP Navajo Mine; 4) participation in a multi-agency meeting, including Navajo and industry; and 5) training and support for the federal Office of Surface Mining (OSM) and Navajo minerals inspectors.

A key accomplishment for Region 9 in FY97 for NPDES mining issues has been establishment of a mining team of technical staff dedicated to work on new source mining permits and establishment of EPA as a cooperating agency with states on new source mining permits.

Municipal Wastewater Treatment

Region 1's NEEATeam provided municipal wastewater treatment plant operators with on-site technical assistance and training. The Team also provided municipalities and certain industrial sectors with information on how to comply with environmental requirements and how to prevent pollution. The NEEATeam Municipal Sector conducted on-site compliance assistance visits to 19 wastewater treatment plants. In addition, the NEEATeam and Region 1's Office of Ecosystem Protection conducted three conferences on "How to Comply with NPDES Metals Limits." These conferences provided assistance to municipalities and industries for dealing with low level metal content in wastewater discharges and related compliance issues.

Region 1 and all six states have actively participated in the region's wastewater treatment plant operator on-site technical assistance. The region's operator training program conducted more than 1,000 on-site technical assistance visits at more than 400 wastewater treatment plants. Recent examples of on-site technical assistance successes include:

- ***Vermont Dairy Pollution Prevention Program (VDPPP)*** - The VDPPP began in 1994 when it was discovered that five wastewater treatment plants were in significant noncompliance with their permit limits. The violations were caused by discharges of waste from dairy industries in the communities. Staff from the Vermont Department of Environmental Conservation (VT DEC) and the NEEATeam Municipal Group provided on-site technical assistance to these five treatment plants and to 33 dairy facilities. The VDPPP identified pollution prevention opportunities, provided technology transfer, and increased treatment plant compliance. The program also produced a pollution prevention

video for the dairy industry. The video, used to train employees at the 33 dairy facilities, is now being used nationwide.

- ***Technical Assistance to Waterbury*** - The Waterbury wastewater treatment facility (WWTF) had significant violations of its biochemical oxygen demand (BOD) permit limit. The WWTF is an aerated lagoon that is designed to handle a loading of approximately 750 pounds a day of BOD. However, it routinely handled a loading of 1,200 pounds a day. As part of EPA assistance efforts, the source of the high BOD was identified. With continued assistance from EPA, Waterbury upgraded its aeration system and accumulated sludge was removed from its primary lagoon. The industrial source of the BOD constructed a pretreatment system, implemented pollution prevention techniques, and is limited to discharging 200 pounds a day of BOD to the treatment facility. Waterbury is now in full compliance with its permit requirements.

- ***Most Improved Wastewater Treatment Plant*** - Richmond has a small wastewater treatment plant with a capacity of approximately 0.25 million gallons per day. The facility serves approximately 249 residential, 54 commercial, and one industrial connection. The plant had a history of effluent violations. Technical assistance efforts by EPA and the VT DEC resulted in identifying a neighboring dairy facility as the main cause of the plant's problems. The dairy facility was provided with technical assistance and agreed to install flow equalization and pH adjustment equipment that would help alleviate the operational problems at the treatment facility. The wastewater treatment plant is now in full compliance with its permit requirements.

Printing

Region 1's NEEATeam published and began to distribute its multimedia compliance and pollution prevention manual entitled *Fit to Print*. As of October 1997, almost 1,500 manuals were distributed. The manual was designed to be a comprehensive resource to printers and contains state-specific regulatory inserts. The manual has been widely praised. A series of outreach events for lithographers was launched by the NEEATeam including five workshops in Maine and two in Connecticut. In addition, a follow-up effort has been undertaken to solicit feedback from printers who received the manual. The follow-up effort will help the team determine if the manual meets printers' needs, ways in which the manual might be improved, and any questions printers have regarding the material in the manual.

In FY97, Region 2 inspected 22 commercial printers for compliance with RCRA requirements. This brings the total compliance evaluations of commercial printers over the last two years to 39. Most of the printers inspected were found to be small quantity or conditionally exempt small quantity generators, to have tolling agreements for removal of solvents and recycling contracts for photographic type wastes, and to be in compliance with RCRA hazardous waste requirements.

Region 2 continued its support in the printing sector of EPA's Common Sense Initiative (CSI) New York City Education Project. This support included: 1) hosting CSI planning meetings, 2) building regional capacity to plan, coordinate, and enhance outreach among New York stakeholders, 3) serving as Project Officer for four CSI community grants awarded at the end of FY97, and 4) bringing to completion Region 2's idea to develop, with other CSI stakeholders, the *Environmental Compliance and Pollution Prevention Technical Assistance Directory* for New York printers.

Region 2 also provided support for state initiatives relating to printers. For example, the region funded four NYSDEC pollution prevention/regulatory compliance workshops, provided staff to serve as guest speakers, and assisted in the development of outreach documents (i.e., NYSDEC's *Environmental Self-Assessment for Lithographic Printers* and *Environmental Compliance Pollution Prevention Guide*).

Pulp Mills

Pulp mills in Region 3 are a significant source of SOx and NOx. Moreover, there has been a substantial production increase in the last decade that may be related to unpermitted construction. In FY97, Region 3 conducted eight detailed investigations of pulp mills. Of these eight, seven were found to have substantial violations and appropriate enforcement or other responses are under development.

3.1.3 Regional Sector Priorities

In addition to national sector priorities, EPA regions implemented regional sector enforcement and compliance priorities among the nationally defined significant sectors and regionally developed sector priorities. Regional sector targeting allows each EPA region to focus on the environmental and health problems that are most pressing in its area. The following discussion highlights regional sector priorities.

Region 1

During FY97, Region 1 focussed its compliance and pollution prevention assistance work with the following sectors: metal plating and finishing, electronics, wood furniture manufacturers, and schools. Three of these sectors were also CSI priorities.

- ***Assistance to Emergency Planners and Responders*** - The EPCRA team completed and signed agreements with more than 350 State Emergency Response Commissions, Tribal Emergency Response Commissions, and Local Emergency Planning Committees to provide Computer-Aided Management of Emergency Operations software, training for emergency preparedness, and guidance for ensuring that information is made readily available to the public.

- ***Metal Finishing Workshops*** - The NEEATeam metal finishing sector conducted several workshops to bring information on compliance requirements, pollution prevention opportunities, and technologies directly to metal platers and surface finishers. One workshop was attended by approximately 75 people on the chrome electroplating Maximum Available Control Technology (MACT) standard. A second workshop co-sponsored by a surface finishers trade association and others was attended by approximately 100 people. NEEATeam also co-sponsored the annual meeting of the American Electroplaters and Surface Finishers for the Rhode Island and Merrimack Chapters.

- ***NEEATeam Assistance to Schools*** - The NEEATeam kicked off its assistance efforts with the school sectors by hosting a roundtable with a number of school assistance organizations and contacting all New England states to identify and support their efforts. Throughout the year, the NEEATeam sponsored numerous workshops and seminars for Massachusetts school assistance providers to discuss compliance assistance issues and concerns, strategize about how to provide better support on environmental issues, educate providers about effective tools and assistance opportunities, and provide necessary training for participants. The NEEATeam also established a clearinghouse of tools and services to make the information readily available to its customers who provide assistance to schools and conducted an environmental, health, and safety audit with other organizations at the Dennis Yarmouth High School.

- ***Public Agency Team*** - The Public Agency Team's enforcement activities were primarily focused on inspecting large municipalities in urban settings as well as transportation agencies and state universities. In addition to inspecting the public sector, the team expanded its efforts to include state and municipal contractors and tenants located on publicly owned sites. Approximately 145 team-related inspections and 26 enforcement actions took place during the Fiscal Year.

  In FY97, emphasis was placed on inspecting state transportation departments and universities in Connecticut, New Hampshire, and Rhode Island. These inspections identified several substantial environmental problems that will result in multimedia enforcement actions. To date, an enforcement action has been issued to the Connecticut Department of Transportation.

- ***Chlorine Initiative*** - One-third of the region's APOs resulted from the region's chlorine initiative. The intent of this initiative was to send a strong message to the regulated community regarding this agency's intolerance to the discharge of extremely toxic substances, such as chlorine. In fact, under this initiative, some of the highest penalties ($50,000-$70,000) were brought against municipalities. To underscore the message, for facilities that have initiated steps in correcting chlorine violations, the region issued AOs to assure the problem is taken care of in a specified time frame.

Region 2

Region 2 has a high concentration of pharmaceutical facilities in the New York/New Jersey metropolitan area and also in Puerto Rico. These facilities may potentially emit VOCs. They also may be subject to new RCRA regulations and impending water regulations. Region 2 conducted 11 CAA, 21 CWA, and 3 multimedia inspections of pharmaceutical facilities in FY97. The states conducted an additional 21 CWA inspections. In addition, six PCB inspections and four Core TSCA inspections were conducted. The region also conducted 13 EPCRA §313 inspections. Two complaints and one consent order were issued. Based on the results of the FY96 inspections, Region 2's RCRA program decided to focus on generators; therefore, 19 of the 27 pharmaceutical inspections completed in FY97 were conducted at generators. Inspections also were conducted at five treatment, storage, and disposal facilities (TSDFs), two non-notifiers, and one boiler and industrial furnace (BIF). Additionally, four separate incinerator inspections were conducted at TSDFs, which were simultaneously undergoing inspection by another RCRA inspector.

Region 3

Chromium Electroplaters - Compliance assistance is a central activity in the chromium electroplater sector. The region handled hundreds of calls concerning the Chrome NESHAP. Another major assistance activity was the redesign of the chromium electroplating website for Region 3. A major accomplishment in the chromium electroplaters area involves a referral to DOJ for a source with facilities in at least three different EPA regions. The case began in Region 3.

Region 4

Airport & Aircraft Maintenance Facilities - These facilities were originally targeted due to the 1996 ValuJet Airline crash which has been attributed to the mismanagement of hazardous materials (specifically oxygen generating canisters) by airline maintenance facilities. From the inspections conducted, the management of this type of waste does not appear to be a problem in this industry. However, there did appear to be an overall trend in the mismanagement of other hazardous wastes. Of the 34 inspections conducted, 22 SVs were identified. In addition, three SNCs were identified for violations associated with the illegal treatment and storage of hazardous waste generated from paint stripping and application operations on airplanes.

Bulk Petroleum Storage Facilities - In FY96, it was discovered that several of these facilities were discharging benzene-contaminated wastewater onto the ground without a RCRA permit or interim status. In FY97, the Region conducted 47 inspections at bulk petroleum storage facilities, of which 15 resulted in the identification of SVs and the subsequent issuance of informal enforcement actions. There were four facilities identified as SNCs, which have been addressed by EPA formal enforcement actions.

Region 5

Chromium Electroplaters - Region 5 developed and executed a pilot project to identify non-notifiers in the Kenosha-Racine, WI, area. This area was selected as it was small enough to do a complete review and the state had requested an increased federal presence. The results of the pilot project have been the refinement of the information gathering steps and the initiation of similar efforts to identify potential non-notifiers in Cleveland and Chicago.

Region 6

Louisiana Used Oil - Thirty-one RCRA inspections were performed in the geographical oil and gas producing areas of southeast New Mexico and Central Coastal Louisiana. Most of the inspected facilities are located in environmental justice areas. A total of 18 enforcement actions was developed. Eight compliance orders with consent agreements and penalties were issued. Five compliance orders with penalties were issued to New Mexico facilities.

SEPs were implemented in association with four of the enforcement actions. The SEPs involved community-based regulatory compliance promotion projects in the form of seminars about RCRA and EPCRA regulations and the generation and disposal of household hazardous waste. Success is measured by the FY97 RCRA inspections in the same geographic area and industry. One compliance order was issued from eight inspections. Awareness of the requirements for the generation and management of hazardous waste in the New Mexico oil and gas industries was apparent during the eight inspections because four of the facilities indicated they had attended the RCRA seminar in their community earlier in the year.

Offshore NPDES General Permit for Oil and Gas Exploration and Production - Region 6 provided necessary reporting forms to more than 2,000 facilities for compliance monitoring and reporting of the effluent quality of wastewater discharges from offshore platforms to the Gulf of Mexico. As a result, the compliance rate for reporting is approximately 98 percent. Assistance was provided through an estimated 300 telephone conversations with individual facilities, consultants, and state and federal agencies regarding various compliance issues. General permit coverage and reporting requirements were explained to ensure increased compliance. In addition to accomplishing all of the planned activities for FY97, a presentation on NPDES Offshore General Permit compliance and enforcement was given to approximately 100 permittees in Dallas.

Region 7

Region 7 developed a broad multimedia strategy for addressing the threat to human health and the environment from charcoal kilns in the Ozark region. The region established and operated a monitoring site to determine compliance with the ambient air quality standard for PM_{10} and established a video monitor that could be accessed on the Internet to view the operation of the kilns. Initial data from this study showed frequent exceedances of the PM_{10} standard and indicated that on certain days, charcoal production emissions contributed to extraordinarily high

ambient concentrations. The magnitude of the concentrations prompted Region 7 to issue 11 information requests to similar facilities under §104(e) of CERCLA. Information submitted in response to this request indicated that significant quantities of methanol and nitrogen oxide emissions from many of these facilities were previously unreported, in violation of EPCRA §304 and CERCLA §103.

As a result of these actions, the industry entered into negotiations. In response to exceedances of the PM_{10} standard, and in order to mitigate potential penalties for the EPCRA/CERCLA violations, Royal Oak Enterprises, Patio Chef, and West Plains Charcoal entered into a consent agreement on September 26, 1997, with EPA to install controls to drastically reduce their emissions and to pay a substantial civil penalty. In addition, other companies in this industry have committed to reduce their emissions in the short-term and to work with the Missouri Department of Natural Resources to develop an air rule which will regulate all Missouri charcoal kilns. This will result in the removal of over 100 million pounds of air pollutants during the 7-year period provided for all facilities to be in compliance.

Region 8

A nationwide pilot program initiated by Region 8 and the U.S. Fish & Wildlife Service (USFWS) has resulted in significant environmental success regarding problem oil pits (POPs). Working with federal and state co-regulators (e.g., Bureau of Land Management [BLM], state environmental agencies, and state oil and gas commissions), aerial surveys and approximately 320 ground surveys on POPs were conducted in Colorado (80), Montana (120) and Wyoming (120) during the summer of 1997. Of these, EPA, USFWS, and co-regulators estimate that approximately 50 percent are POPs that are in noncompliance with applicable federal/state statutes or regulations.

In light of the number of noncompliers, a coordinated multi-agency approach has been undertaken which allows the appropriate agency(ies) to utilize either compliance assistance, informal enforcement, or formal enforcement to gain compliance. In FY98, EPA intends to issue formal enforcement actions under CWA, OPA, and/or RCRA authority(ies) for three to five Colorado facilities, seven Montana facilities, and five to ten Wyoming facilities. In FY97-98, USFWS intends to issue 105 enforcement actions. In FY98, the States of North Dakota and South Dakota are targeted for POP team activities. In FY99, the State of Utah is targeted.

Region 9

The Merit Partnership for Pollution (Merit) is a cooperative venture of the public and private sectors. Its mission is to develop and promote pollution prevention practices and technologies that both protect the environment and contribute to economic growth. Current projects involve the development of an environmental management system (EMS) template, EMS demonstration projects based on the international ISO 14001 standard, as well as demonstration projects with the metal finishing industry and alternative fuel vehicle proponents.

The Biologically Integrated Orchard System (BIOS) program has enjoyed continued support from Region 9 through various grants and technical and management assistance. The mission of BIOS is to build a community of farmers, other agricultural professionals, and public institutions dedicated to the voluntary adoption of whole systems approach to farm management which is flexible, maintains long-term profitability, and relies on less chemical inputs. In FY97, the Agricultural Initiative Team implemented Biologically Integrated Farming Systems projects along with other higher environmental priority commodities and crops for California, many of which use large amounts of targeted pesticides and fertilizers.

3.2 Community-Based Environmental Protection Priorities

In FY97, EPA made significant progress in advancing CBEP. The Agency has actively promoted and encouraged regions to adopt CBEP as they implement their compliance and enforcement activities. Through policies and initiatives, EPA is giving regions and co-regulators flexibility to allow local communities, neighborhoods, and developments to set their own environmental priorities and to pursue environmental goals that meet their environmental needs and still meet Agency requirements. EPA also is empowering communities by opening its compliance and enforcement databases to the public and building new tools, including risk-based targeting geographic information systems (GISs) to focus on problem areas, particularly in environmental justice communities, and enforcing communities' rights to information about toxic and hazardous materials in their communities.

The community-based projects described in this section are achieving meaningful results. Some take the form of traditional enforcement activities. Many of the benefits of community-based projects consist of less tangible benefits, such as establishing relationships with marginalized communities, bringing together stakeholders concerned with a specific resource or region, and developing a solution that works for everyone affected. Moreover, it is important to recognize that a significant part of these benefits will be achieved in the long-term, not the short-term. Many of the issues being addressed by community-based enforcement initiatives are significant problems, which cannot be resolved overnight. Thus, many of these projects reflect the early phases of achieving community-based solutions. The CBEP projects described in the remainder of this section are organized by EPA region and reflect selected examples of the work the Agency is doing in this area.

3.2.1 Region 1

Mystic River Watershed of Boston Harbor - The Sensitive Ecosystem team devoted most of its resources to the Mystic River Watershed of Boston Harbor in FY97. There was a total of 57 inspections conducted, 17 enforcement actions, and one criminal referral.

In response to requests from several local officials, inspectors from the region conducted a half-day seminar in January on federal environmental statutes (e.g., air, water, hazardous waste) for many officials in the seven Mystic communities. This seminar was designed to heighten the awareness of these front line officials so that they can incorporate environmental compliance into their enforcement programs and notify EPA or the state when they identify an environmental concern.

Team members worked with the Printers Partnership Program at the Massachusetts Department of Environmental Protection to develop a strategy to select printers to inspect. Five printers were mutually agreed upon as inspection targets from a list of 150. These printers were inspected by RCRA staff and some also were inspected by air and water staff.

In conjunction with the auto salvage yard team, all of the unpermitted storm water discharges that fell in the auto salvage yards Standard Industrial Classification (SIC) code were identified in the Mystic Watershed. Twelve facilities were identified through extensive research of the yellow pages, Internet, and trade organization sources. Seven have been inspected in FY97 and the remaining five will be inspected in FY98.

Lower Charles River Basin - The team continued oversight of seven municipal enforcement actions directed at the removal of illegal sewer connections to storm drains, which have resulted in the elimination of more than 20 million gallons of sewage per year to the river. The team continued to negotiate combined sewer overflow (CSO) abatement facilities and investigate other potential storm water enforcement cases.

New Hampshire Seacoast Project - Meetings were held with over 20 state, local, academic, and environmental groups to solicit their input and priorities for environmental concerns in the seacoast area. From these meetings specific project goals were developed relating to: wellhead protection, shellfish bed protection, wetland/salt marsh protection, and deterrence. Based upon these goals, a reconnaissance was conducted to identify specific targets for outreach and inspections. During the reconnaissance, five RCRA inspections were conducted.

Runnins River - The region provided technical and programmatic assistance to the Runnins River Steering Committee. This committee worked to find and eliminate pollution sources including failing septic systems, leaking sewer lines, illegal storm drain connections, and other runoff issues. A watershed assessment and wet weather study was initiated and public awareness of pollution prevention within the watershed community was increased. EPA provided nonpoint pollution and water quality funds.

The efforts of this committee resulted in the reopening of Hundred Acre Cove, a 104-acre area in Barrington, RI, for shellfishing in May 1997. These shellfish beds were closed in 1995 due to nonpoint source pollution from the ten square mile Runnins River watershed area which transcends Rhode Island and Massachusetts. The reopening of the beds is attributed to the cumulative improvements in controlling nonpoint sources such as septic systems, better control of municipal and commercial discharges, and greater community awareness of land use.

3.2.2 Region 2

Region 2 has been moving toward addressing areas from a multimedia and/or place-based perspective for some time (e.g., the Long Island Sound Initiative has been ongoing since 1985). However, since FY95, the region has become increasingly aware of the need for stakeholder involvement in these projects and has laid the foundation for incorporating the community-based environmental protection approach into all of its work. CBEP requires the Agency to look at a community's problems holistically and to work in partnership with stakeholders to design and implement solutions.

Barceloneta/Manati, Puerto Rico - A multimedia aquifer protection project was undertaken by the region that encourages local agencies to promote wellhead protection in their area, inventory potential sources of contamination, and target enforcement resources on high-priority groundwater areas. Furthermore, the Barceloneta/Manati area has the highest concentration of TRI emitters in Puerto Rico (four reporters in Barceloneta; nine in Manati). Annual dichloromethane releases to air are more than four million pounds.

The UIC program conducted 20 inspections that were all automotive related, including six service stations, which were part of the leaking UST inventory. There were two training seminars conducted in Barceloneta. One outreach seminar was directed to the community leaders, environmental leaders, and local officials. The second seminar was directed to facilities located within the CBEP area. There was also a direct mailing to 56 EPCRA TRI non-reporters in the Barceloneta/Manati area.

There were seven SPCC inspections conducted (five field inspections, two plan reviews), and one violating facility was brought into compliance. Compliance progress is being monitored at the remaining facilities. No formal enforcement actions are anticipated at present.

South Bronx, New York - The South Bronx section of New York City is zoned for mixed commercial and residential use. Although there are only three major pollution sources, (a sludge pelletizing plant, a wastewater treatment plant, and a medical waste incinerator which is now closed), the area is also subject to the emissions of a couple hundred minor sources (auto body shops, junk yards, and dry cleaners) and to traffic (urban congestion). While no single facility is a major problem, the cumulative impacts of these sources significantly affect the quality of life in the local community.

The region is currently completing Phase 2 of its South Bronx CBEP project. Phase 2 close-out activities include development of GIS maps of the area for distribution to the community and the city and state agencies and development of a South Bronx CBEP website for linkage to the regional CBEP webpage. Potential activities for a third phase of the project are currently under consideration.

Region 2 held a public meeting in the Hunts Point community to notify residents of the area about the activities of EPA and the city and state health and environmental agencies. Fact sheets on public health, truck traffic issues, the wastewater treatment plant, the sewage sludge treatment plant, and ambient air quality were distributed.

Twenty-four RCRA inspections were conducted in FY97. Two EPCRA 313 complaints were issued for failure to submit a TRI reporting Form R in a timely manner. One case was settled and one is now proceeding with settlement negotiations.

One chemical safety audit was performed at a chemical manufacturing facility. The audit report was issued with recommendations for the company to improve practices for safe handling, storage, and processing of chemicals.

As part of the CBEP effort, EPA has funded projects related to asthma research, intervention, and outreach activities through a combination of regional geographic initiative money, regional discretionary grant money, and individual program money. Some projects are South Bronx specific and some are more regional in nature. EPA-funded projects include:

- An integrated pest management pilot project with an associated literature and English/Spanish video component for distribution to the community
- Cockroach movement pattern distribution research to provide information on patterns of allergen distribution
- Co-funding of an asthma conference in New York City, which will have a community input component
- Indoor air survey at Public School 48 in the South Bronx
- Provision of funding to a national inner-city asthma study for environmental measurement and intervention in households in the South Bronx related to problems associated with cockroaches, environmental tobacco smoke, pets, dust mites, mold, and rodents.

Long Island, New York - This innovative initiative was undertaken to address an ecosystem concern relating to contamination of a sole source aquifer that provides the drinking water for two million people.

In FY97, the following inspections were conducted:

- 43 RCRA compliance inspections at hazardous waste generators
- 143 air inspections
- 38 water inspections
- Eight PCB and four core TSCA inspections
- Seven EPCRA inspections
- Nine SPCC inspections (eight field inspections and one plan review).

Middlesex County - Region 2 designated Middlesex County, NJ, as a priority area for enforcement and compliance activities for several reasons. It has been identified as a non-attainment area for ozone. It has the highest overall TRI releases to air, water, and land in all of New Jersey. There are a large number of indirect wastewater discharges to the Middlesex Utilities Authority, including sources from Superfund sites. There are 1,700 major and minor air sources, 2,551 hazardous waste handlers, and 122 TRI facilities. It is home to three townships (Carteret, New Brunswick, and Perth Amboy) that have been identified on low income/minority charting exercises.

In FY97, the following inspections were conducted:

- 21 RCRA inspections
- Nine UST inspections
- Eight air inspections
- Four TSCA PCB inspections
- 21 SPCC inspections (13 field inspections and eight plan reviews).

New York/New Jersey Harbor - Toxic pollutants have affected the water, sediments, and biota of the New York/New Jersey Harbor. Harbor Estuary Program studies have identified 17 chemicals or classes of chemicals of concern (COC) including metals, dioxin, PCBs, polycyclic aromatic hydrocarbon compounds (PAHs), chlorinated pesticides, and VOCs. The area is highly industrialized, with a high concentration of TRI reporters (440 reporting facilities in 1991) and releases to water, land, and air (88 major air sources in the Harbor area). The region prioritized the northeastern New Jersey counties of Bergen, Passaic, Hudson, Essex, and Union as an area of focus in FY97 although activities were carried out throughout the Harbor area. Activities were focused on those industries with the largest releases/discharges of the targeted pollutants.

During FY97, Region 2 and the states of New York and New Jersey conducted:

- CAA inspections at 22 facilities
- 515 CWA inspections of minor permittees and 215 CWA inspections of majors
- 20 SPCC inspections (11 field inspections, nine plan reviews)
- 16 PCB inspections
- Four core TSCA inspections
- 20 EPCRA §313 inspections
- One EPCRA §313 seminar.

3.2.3 Region 3

South/Southwest Philadelphia, PA - This section of Philadelphia is an EJ community in one of the nation's most densely populated industrialized areas. The primary objectives were to reduce TRI pollutants, improve compliance, and reduce criteria pollutant emissions.

A pilot multimedia environmental health characterization was completed for Region 3 by the Johns Hopkins University School of Hygiene and Public Health. This report will provide a geographic profile of the findings which will assist Region 3 in establishing a long term strategy for the protection of the South and Southwest Philadelphia environment.

The region conducted two RCRA Subtitle C and two Subtitle I inspections as part of a media initiative to inspect local garages. Multimedia inspections were completed at two major refineries, the largest TRI emitters. Region 3 worked with the state and local criminal authorities and issued state charges against a local waste oil recycling business.

Anacostia River, Washington, DC - This area in the District of Columbia is an EJ community containing the Anacostia River, which is among the nation's most contaminated rivers. Fish tissue contamination presents a serious public health threat to the economically disadvantaged residents of the surrounding communities. EPA and others are seeking to reduce or eliminate the human health risks posed by the contaminants of concern. There are problems associated with storm sewers and health concerns over exposure to lead.

The region conducted eight RCRA inspections and multimedia inspections at federal facilities in the area. The region conducted 31 UST leak detection inspections at two federal facilities. Region 3 continued to evaluate potential sources outside of DC, which may have contributed toxics to the Anacostia River. The region is developing compliance assistance workshops for the automotive repair sector in the Anacostia communities.

Region 3 initiated a collaborative effort with the Department of Housing and Urban Development (HUD), DC-ERA, and the DC Health Department to advance lead poisoning prevention programs. As a result of this effort, critical attention was focused on the need for passage of lead abatement worker protection regulations in the District.

Chesapeake Bay - The Chesapeake Bay has been an area of regional focus for some time. The principal focus of the work includes: 1) reduction of nutrient loadings; 2) reduction of toxic impacts to local areas of the Bay; and 3) protection of habitats. Much of the problem arises from nonpoint and area sources that are not well suited to traditional enforcement responses.

Region 3's RCRA division conducted ten inspections in the watershed. The region conducted a total of 12 UST inspections in the watershed. The region's water division initiated an enforcement action against Smithfield Foods. Following a trial, Smithfield was fined $12.6 million, the largest CWA penalty ever. Smithfield Foods and two of its subsidiaries violated the CWA by discharging pollutants, in violation of their NPDES permits, for years into the Pagan River, a tributary of the Bay.

3.2.4 Region 4

Charleston/North Charleston, South Carolina - The Charleston/North Charleston area has a number of environmental and human health issues. A meeting was held in late August 1997 with the South Carolina Department of Health and Environmental Commission (SCDHEC) to discuss the development of a compliance strategy. Seven asbestos NESHAP inspections were also conducted in the Charleston CBEP area.

In July 1997, a special storm water inspection of Macalloy Corporation documented extensive drainage of hexavalent chromium contaminated dust, slag, and ore into Shipyard Creek. Shipyard Creek has been placed onto the CWA §303(d) list for impairment due to toxics. The sample results from the inspection revealed hexavalent chrome, total chrome, manganese, lead, arsenic, barium, and elevated total suspended solids (TSS) were being discharged in storm water. Regional permit staff will work with the state to establish more stringent limits. In the interim,

temporary controls were installed at the plant to address the violations found during the storm water inspection. The state has required the installation of temporary controls in order to mitigate problems identified during the storm water inspection.

3.2.5 Region 5

Northwest Indiana - A Compliance and Enforcement Committee was maintained with EPA legal and media representation from all media. The committee met six times in FY97 to prioritize multimedia compliance and enforcement activities, and target multimedia inspections. Two multimedia inspections were conducted, and a comprehensive plan for FY98 was developed. The following activities were completed in FY97:

- An order under §3008(h) was finalized with DuPont to clean up its site in East Chicago
- Orders for the U.S. Steel Gary Works under CWA and RCRA were negotiated
- Interim measures proceeded for the USS Lead site under RCRA
- A removal action at the Gary Lagoons site was completed and the site was restored
- A consent order with potentially responsible parties (PRPs) was negotiated to remove 350,000 cubic yards of PCB and lead contaminated auto fluff from the H&H Enterprises, Inc., site in Gary, IN
- Construction was completed by PRPs on the Waste, Inc., Landfill site in Michigan City, IN.

Southeast Michigan (SEMI) - In addition to the routine programmatic enforcement efforts, Region 5 initiated efforts to develop a systematic approach to targeting enforcement efforts in the Delray area of Detroit. This is a severely impacted environmental justice community. The efforts initiated in FY97 included meetings and discussions with representatives from the city, state, county, and local citizens' groups. Additionally, regional management appointed an interdivisional team to develop a targeting plan for the area.

Greater Chicago - The primary activity undertaken in FY97 was to conduct joint, multimedia inspections at four scrap processing facilities in the Chicago area. Efforts have been made to involve the public in a number of specific enforcement activities in Chicago. The best example of this is the settlement of the Sherwin-Williams case. The case settled for approximately $1 million after several meetings with community members.

Gateway - The region sponsored two one-day environmental law training courses for local law enforcement. The focus of the course was the type of environmental violations that occur in the Gateway area, and the laws the officers have to enforce against these violations. As a result of

this training, more police are issuing warnings and tickets, and the St. Clair County State Attorney's Office is prosecuting twice as many environmental violations.

3.2.6 Region 6

Grunge River Basin - An environmental justice community has been identified in this river basin and complaints have been received regarding the water quality of the river and potential health risks. Five facilities (one non-ferrous metal facility, two chemical plants, a power plant, and a municipality) were identified in this river basin. All five facilities were inspected using a multimedia checklist. Four facilities were in compliance with all of their media-specific permits. It was discovered that the municipality was out of compliance with its NPDES permit due to recent power outages experienced at the plant.

Galveston/Harris Counties, Texas City - Texas City was selected for a CBEP program based on its ranking on the region's Human Health Risk Index (HRI), proximity on Galveston Bay, past enforcement record, and environmental justice ranking. A meeting with the mayor indicated a very high interest in improving environmental compliance by working with EPA, Texas Natural Resource Conservation Commission (TNRCC) and Texas City facilities.

A compliance baseline was established through a series of inspections and review of historical enforcement actions. A series of meetings were held with the shareholders (EPA, the city, TNRCC, and the Galveston Health Department) to develop the CBEP program and measures of success. These measures included percent of participation by stakeholders and specific reductions of noncompliance issues over a one-year, two- and five-year period. Increased information was provided to the community and better working relationships were established between the regulated community and the regulators.

Lake Pontchartrain Basin - Region 6 issued approximately ten orders to municipalities causing effluent problems in the Basin. EPA also continued the ongoing lawsuit against the Cities of Baton Rouge and New Orleans. LDEQ initiated more than 100 enforcement actions against facilities within the Basin including the issuance of more than 60 orders. LDEQ also inspected approximately one third of all permitted facilities within the Basin (nearly 300).

EPA and LDEQ are working together to bring municipalities and animal feeding operations into compliance. These efforts will result in improvements in water quality when coupled with the technical assistance over a five- to ten-year period.

3.2.7 Region 7

"Connecting with the People and Places We Serve" is a new color brochure produced by the CBEP Marketing/Skills Development workgroup within Region 7. The brochure was distributed at the Kaw Valley "Rollin' Down the River" festival. The brochure summarizes the major principles of CBEP and highlights the Kansas River Watershed Enhancement Initiative as an example of CBEP.

3.2.8 Region 8

Region 8 has been actively involved in the formation of a CBEP effort to address the impacts of historical mining operations in French Gulch near Breckenridge, CO. EPA has provided funding for facilitation and organization of the local stakeholder group. A group consisting of various representatives from federal, state, and local governmental organizations, private landowners, community residents, local business interests, and others has been meeting to develop goals and approaches for addressing the impacts of historic mining operations in this area. EPA, through both technical and enforcement representatives, has been providing leadership and expertise in helping the group work toward characterizing and cleaning up this site. Region 8 is using a multimedia "toolbox" approach so the group can evaluate the most appropriate and effective tools for remediating this site. The presence of federal, state, and local enforcement representatives has encouraged the group to consider a variety of regulatory and funding approaches.

3.2.9 Region 9

Oakland - Region 9 is currently investigating a full range of environmental and related issues affecting the West Oakland community via the new urban environmental justice pilot project. Among the major issues of concern are contaminated soil and groundwater, air quality, and lead, which are intertwined with local planning and zoning issues, lack of communication, and health concerns. In partnership with residents, local and state government agencies, and other parties, EPA is working to identify and prioritize these issues and develop means for resolving them.

Consistent with information gathering and community networking goals, the region convened focus group meetings to gain the community's perspective on environmental issues. A wide variety of issues was raised in these meetings, including concerns about zoning, contamination from past and present industrial activities, truck traffic, and perceived impacts of the new Cypress freeway construction.

In April 1997 in coordination with the Bay Area Air Quality Management District, the Port of Oakland placed two air monitors to collect data on particulate (PM-10 and PM-2.5) issues raised by the community in regard to truck traffic.

Santa Monica Bay Project - The biennial review of accomplishments for the Santa Monica Bay project was completed in FY97. Also, a key focus this year was seeking financing for implementation of the comprehensive management plan. State and county funds have been made available and technical assistance provided for storm water quality improvement projects. Comprehensive monitoring of bacteriology, seafood consumption, and wetlands was completed to provide decision makers and regulatory agencies with information necessary to assess water quality at Bay beaches, update and revise fish consumption advisories, track trends in the condition of natural resources, and assess regional impacts of contaminants on the Bay's beneficial uses.

3.2.10 Region 10

In FY97, Region 10's Air program renewed FY96 grants to four tribes and provided additional funding to two other tribes to develop, implement, and enforce air quality management rules. Five additional tribes received funds focused on ambient air quality monitoring. The funding and grant monies that EPA has made available to tribes in recent years has helped to increase the awareness of the Air program. In addition, Region 10 has conducted inspections at five air pollution sources on tribal land.

3.3 Cross-cutting or Multimedia Initiatives

Cross-cutting or multimedia initiatives are those special projects or activities that do not target specific areas, industry sectors, or media programs, but cut across all of these to ensure better protection of human health and the environment. Such projects or activities may consist of policies, data systems, voluntary programs, training, or strategic planning. The following sections describe some of these types of programs, specifically cross-cutting or multimedia projects/highlights, federal activities, criminal program, federal facilities, and environmental justice/tribal activities.

3.3.1 Cross-cutting or Multimedia Projects/Highlights

In FY97, there were several cross-cutting initiatives that were national in scope. While managed at the headquarters level, these projects incorporate ideas, concepts, and personnel from headquarters and the regions. The following are some examples of such initiatives:

- ***State delegations*** - In the state delegations arena, OECA's FY97 accomplishments include working with states that have enacted audit privilege/immunity legislation to ensure that enforcement and compliance requirements applicable to state delegation or authorization of environmental programs are satisfied. On February 14, 1997, EPA issued the *Statement of Principles, Effect of State Audit Immunity/Privilege Laws on Enforcement Authority for Federal Programs*. This document reflects EPA's interpretation of the impact of state audit laws on state enforcement and information gathering authorities required as a condition of federal program approval.

- ***Compliance Information Project*** - OECA is undertaking the Compliance Information Project (CIP), a new, supplementary approach to gathering and analyzing compliance information. It was developed to address concerns that EPA's present methods and processes to identify and use compliance information have not captured, internalized, or used all of the compliance information potentially available to the Agency. The CIP will identify useful compliance information through two mechanisms: 1) a broad survey of compliance-related literature from government agencies, non-governmental organizations (NGOs), academic and trade journals, and the Internet; and 2) field personnel interviews of federal and state inspectors and other compliance experts using a roundtable format. The information OECA gathers through the CIP will be channeled to the federal and state personnel who design and implement information, targeting, and planning systems, to enhance the Agency's ability to describe where compliance exists, improve EPA databases, or guide EPA previously unidentified compliance problems. Under the current schedule, a final project report is to be issued toward the end of calendar year 1998.

- ***Small Business Compliance Assistance Centers Program*** - In FY97, OECA continued supporting its four existing small business compliance assistance centers, which provide Internet and toll-free telephone assistance to the following sectors: automotive service and repair, printing, agriculture, and metal finishing. Also this year, OECA established

four new compliance assistance centers and expanded one of its existing centers. The new centers will serve the printed wiring board manufacturing, chemical industry, transportation, and local government sectors. The existing metal finishing center has expanded its focus to include paints and organic coatings. In addition, the Centers Program has begun to expand its focus to include state-specific environmental compliance information.

- ***Root Cause Analysis Projects*** - In 1997, OECA initiated four "root cause" analysis studies: iron and steel industry, nonferrous metals industry, oil and petroleum industries, and chemical industry. These studies are designed to provide more detailed accounts of inspection and enforcement activity over time; violations by media and by specific pollutants released; and, where available, causes of violations and specific process units or equipment involved.

Compliance Assistance Centers

The Centers Program also is embarking on a multi-level assessment to determine the impacts of the centers in three areas: outreach, customer satisfaction, and behavioral changes. Based on information EPA is able to collect at this time for existing small business assistance centers, it is known that:

- 15 percent of the metal finishing industry are regular users of the Metal Finishing Resource Center and over 40 percent of the 3,200 registered users are individual plating shops.
- The Agriculture Center has distributed more than 2,000 copies of compliance assistance materials to information providers within the agriculture community.
- 80 percent of CCAR-Greenlink® (auto center) users go beyond the websites home page for information.
- A follow-up survey of printers that viewed the Printers National Environmental Assistance Center's 1995 Green and Baseline Profitable Printing Video Conference showed 92 percent of the surveyed participants improved the environmental compliance at their shop.

- ***Compliance Assistance Providers Workshop*** - On July 21 and 22, 1997, OECA sponsored the Compliance Assistance Providers' National Workshop. This workshop assembled over 100 people and organizations that provide direct assistance on environmental problems and represent a community with common problems needing cooperative solutions. Workshop participants engaged in a discussion and produced a set of recommendations identifying how the community of assistance providers can become more efficient, provide better assistance, reach more clients, and guarantee sustainable assistance over the long term by documenting their individual and collective cooperation and success. The findings and recommendations resulting from the workshop are documented in a workshop report, available by downloading from the Internet at http://es.epa.gov/oeca/oc/index.html/.

- ***Sector Facility Indexing Project*** - The Sector Facility Indexing Project (SFIP) is a pilot data integration effort that synthesizes environmental records from several data sources into a system that allows facility-level and sector analysis. The indexing project identifies permits and records associated with over 600 facilities in five industrial sectors,

provides data regarding compliance history and pollutant releases for each of these facilities, and provides information on facility size, demographics, and toxicity of released chemicals. Major SFIP accomplishments during 1997 included completion of an EPA/State data quality review and an unprecedented review of data quality by the facilities within the five profiled sectors before EPA publicly released the data. Updated information on the Sector Facility Indexing Project can be accessed from the Internet at http://es.epa.gov/oeca/sfi/.

- ***Strategic Planning*** - OECA staff have been participating in Agency-wide efforts to develop the long-term strategic plan required by the Government Performance and Results Act (GPRA). Using the draft NECAP Strategic Plan as the foundation, staff coordinated with other offices throughout OECA to prepare the numerous submissions on OECA's proposed goals, objectives, and sub-objectives for the EPA plan.

- ***Data Management*** - OECA developed and distributed a Data Quality Survey to headquarters, regions, and selected states to identify data quality issues and concerns specific to OECA's data systems. Survey results were summarized and recommendations to resolve key areas of concern were presented in a final *Report of Findings*.

  OECA has released an Internet-based SEP National Database. The SEP National Database currently contains 318 projects included in enforcement settlements for FY94-96. The database contains the following information: the statutory violations; a description and technical details of the SEP; its estimated cost of implementation; and the expected environmental impacts of the projects. The homepage also contains SEP-related policy and guidance documents and sample settlement language. Additional SEPs will be added to the database as information on new settlements becomes available. The SEP Homepage, which contains the database and related information can be accessed on the Internet at: http://es.inel.gov.oeca/sep or www.epa.gov/oeca/.

- ***Targeting*** - OECA also initiated and completed an analysis of the Miscellaneous Plastics sector (SIC Codes 3080-3089). This sector was initially targeted after the Transportation and Energy Branch analyzed sectors for releases of "known or suspected carcinogens" and observed that this sector had reported over 40 million pounds of releases (mostly to air) in each of the last several reporting years. The next highest sector total is 9.5 million pounds. The analysis includes region-by-region facility lists, an aggregation of total releases by corporation, identification of facilities that report to TRI (but do not have a corresponding record in the air data system), and a region-by-region facility list for all facilities reporting releases of carcinogens regardless of industry sector.

- ***Chemical Industry National Environmental Baseline Report*** - EPA developed the Chemical Industry National Environmental Baseline Report (1990-1994) as a baseline against which to measure compliance trends among the various subsectors of the chemical manufacturing industry. Through an analysis of data related to economics, demographics, the TRI, compliance monitoring actions, violations and enforcement

actions, the baseline provides an overview of the U.S. chemical industry sector as a whole (SIC codes in the 2800 series) and its subsector components (SIC Codes 281-289). It is intended to be used by regulators, states, industry, and the public as a general profile of the chemical industry and its environmental performance from 1990 to 1994. The baseline report provides information that may serve as a catalyst for the development of innovative compliance and enforcement initiatives and similar profiles for this and other sectors on a state or Regional basis and help maximize efficiency in use of resources. Through these activities, the Agency can promote efforts to achieve and maintain compliance, and industry can attain a higher level of environmental performance.

Region 1

Region 1 conducted several cross-cutting or multimedia initiatives in FY97. The following are examples of such activities:

- ***Compliance Leadership Through Environmental Auditing and Negotiation (CLEAN)*** - To promote pollution prevention and improved compliance for small metal finishers, printers, and wood coaters, EPA launched the CLEAN initiative. EPA, with state environmental agencies and trade partners, developed standard terms for pollution prevention assessments and enforcement relief consistent with the terms of the Small Business Policy. On-site assessments were conducted at metal platers in New Hampshire and Maine, as well as printers in Maine. The first assessment reports are complete and participants from all states and sectors have recommended the expansion of this useful assistance tool. Funding and other groundwork are in place to continue and expand CLEAN in additional states, and to provide assessments in new industrial sectors.

  The CLEAN program offers small and medium-sized businesses free, on-site compliance and pollution prevention audits. CLEAN also offers limited enforcement discretion for violations discovered during the process, in exchange for an agreement to correct violations and undertake a "beyond compliance" pollution prevention project.

  The Assistance and Pollution Prevention Office (A&P2) operated five assistance hotlines during FY97 and responded to 11,349 requests for information. In FY97, A&P2 staff gave more than 200 presentations at non-sponsored events to provide assistance or explain EPA's programs and role in promoting compliance, as well as actions that go beyond compliance. These events support implementation of pollution prevention, environmental management systems, and other beyond compliance measures.

- ***HADCO Project XL (eXcellence in Leadership) Agreement*** - The HADCO Project XL Team in Region 1, Region 2, the State of New Hampshire, and the State of New York culminated two years of effort by signing a final project plan (FPA) to encourage beneficial recycling. HADCO is a printed wire board manufacturer with three facilities in New Hampshire and New York. The company generates a metal hydroxide sludge (F006 waste), which it would like to have removed from regulation as a hazardous waste, in

order to enhance the direct recycling of metal bearing waste streams generated by HADCO's manufacturing processes. HADCO's proposal was accepted as one of the original XL pilot projects, with the goal of devising an alternative to the existing process for delisting a waste, which has historically taken four to six years to implement.

- ***ELP/StarTrack First Year Close-Out*** - EPA and its state partners completed the first year pilot of the New England Environmental Leadership Program (ELP) and StarTrack. The ELP provides incentives for businesses that develop and try new approaches to environmental compliance and pollution prevention. The terms of the ELP agreements were carried out by 21 participating organizations, including the completion of compliance audits and EMS audits at eight StarTrack companies. The pilot was successful in demonstrating a new way of ensuring compliance through use of third party audits. Other ELP projects included a well attended open house at the United States Postal Service (USPS) Hartford vehicle maintenance facility, hosted by USPS, Connecticut Department of Environmental Protection (CT DEP) and EPA; the publication of a primer on Design for Environment by Digital Equipment Corporation; and the initiation of a model green plan for non-profit service organizations developed by Crittenton Hastings House.

- ***Partners for Change*** - The NEEATeam recognition program, Partners for Change, offers businesses a free environmental "pocketbook" of ideas on everything from recycling and energy efficiency to waste reduction, available to every New England business. The program was kicked off in February and March of 1997 when thousands of Partners for Change brochures were mailed to grocery stores, small municipalities, printing and metal finishing industries, and others. Approximately 20,000 brochures and 1,400 "pocketbooks" containing applications have been distributed to potential participants. By September 1997, the first companies were approved as EPA partners making a change to protect the environment.

- ***Pollution Prevention and the Bottom line*** - The NEEATeam quarterly newsletter, *Pollution Prevention and the Bottom Line*, is distributed to approximately 3,100 people. The newsletter includes timely information about rules and regulations that affect its readers, details about upcoming conferences and seminars, as well as information about national and regional EPA programs and services. Recipients of the newsletter include facility managers, municipalities, state pollution prevention staff, metal finishers, printers, wood coaters, as well as chairmen of LEPCs.

Region 2

From October 1996 through June 1997, Region 2 conducted 23 multimedia inspections (consolidating 134 program inspections, or 5.8 programs participating in the average inspection). These inspections resulted in violations at 19 facilities (an 82 percent hit rate) and 45 violations with enforcement actions (a 34 percent rate of violations found per program inspection). In

contrast, there were 1,876 single-media inspections, which resulted in 458 enforcement actions issued.

In Region 2, integration of media-specific facility data and experience during targeting provided more details of the targeted facilities for analysis, a greater chance of finding facilities in violation, and a greater chance of identifying overall environmental management problems.

Region 3

Business Assistance Center - Region 3's Business Assistance Center offers assistance to businesses through a toll free line, participation in work shops, links with business and trade associations, and other services. Its focus is primarily on small- and medium-sized businesses.

Exchange - Region 3 produces a monthly report on its homepage called the *Environmental Compliance and Enforcement Exchange*. This report includes items on compliance assistance, regulatory reinvention, policies such as the audit policy, small business news, workshops and conferences, *Federal Register* notices, grant programs to promote compliance and/or pollution prevention, other compliance news of interest to the regulated community, and a list of regional enforcement actions.

Region 4

Region 4 selected 22 facilities for multimedia compliance inspections during FY97. These inspections were led by EPA and state participation was encouraged. The FY97 facilities were selected primarily on state nominations and on the existence of a history of multimedia noncompliance. As a result of more state involvement in the multimedia nomination process, a much higher rate of enforcement was observed than from previous years. Out of the 22 facilities inspected, 17 had or anticipate an enforcement action during FY97/98.

Region 5

Region 5 developed a multimedia tracking system to aid in the management of the region's multimedia cases. The region is currently working toward a new, more user-friendly version of the system. Region 5 also participated in four multimedia, multi-agency inspections in the Chicago area. As a result of these inspections, the region discovered violations at three of the four facilities.

Region 5 sponsored a joint Waste Minimization/Pollution Prevention Conference, which was attended by 700 participants. The region conducted nine waste minimization opportunity assessments at six USPS facilities, including auto service and plant maintenance sectors, two industrial laundry facilities, and a manufacturer of footwear.

Region 5 negotiated SEPs in 17 EPCRA cases. These SEPs resulted in a reduction of the use of toxic chemicals by 319,755 pounds per year and a reduction in the release of toxic chemicals by 403,377 pounds per year.

Region 7

Region 7 developed a multimedia screening checklist that covers all media statutes (e.g., wetlands, UIC, CAA, RCRA, and NPDES). The checklist provides information about potential problem areas for all media. A pilot multimedia screening inspection program was implemented during the second half of FY97. During this pilot, approximately 125 Level B multimedia screening inspections were completed.

Region 7 also developed an enforcement and compliance strategy to creatively solve complex and difficult environmental problems using a mix of compliance and enforcement tools. The targeting strategy is a multimedia risk-weighted strategy comparing release and emission data reported under various Agency statutes with data reported to TRI and the Accidental Release Reporting under EPCRA and CERCLA. The intent is to identify facilities which may be releasing toxic chemicals that could pose chronic health risks to surrounding communities. In FY97, five of the six data quality inspections targeted resulted in administrative enforcement actions.

Region 8

Throughout the year, a team of regional technical and legal staff engaged in numerous discussions with regional managers, headquarters, representatives from Regions 6 and 9, DOJ, and representatives from ASARCO. This resulted in a settlement involving ASARCO facilities in Montana and Arizona. This joint EPA-state action, which was lodged in January 1998, is enabling the governments to achieve comprehensive water quality protection, based on the federal government's jurisdiction over surface waters and Arizona's jurisdiction over groundwater. In addition, ASARCO agreed to spend $50 million to clean up and restore the environment across the two states. The settlement provides for Arizona to share in almost a fourth of the $6.38 million in civil penalties.

Region 9

The signing of the Intel Final Project Agreements (FPAs) last November was the cumulation of a tremendous effort that encompassed technical, political, and local involvement issues of XL/ELP. Implementation of the FPA has been very smooth. The only real controversial issue was that the facility's VOC scrubber went down occasionally, but in accordance with the approved operations plan.

The Bay Area Green Business Program (GBP) is a Region 9 cooperative effort with state and local governments to test a new model that consolidates compliance and provides resource conservation and pollution prevention information to small businesses through a recognition

program. Specifically, small businesses identified several characteristics that are important to them: 1) better working relationships with regulators; 2) a single source to go to for all environmental compliance information; 3) a consolidated set of environmental compliance requirements; and 4) information on useful resources.

- Since January 1996, Region 9 has been providing hands on support to local governments in Napa and Alameda Counties to implement the GBP model in the Bay Area. To date, both counties have implemented the program for the first targeted industry, automotive repair, and are currently focusing on other small business industries. In June of 1997, both counties conducted recognition events for the auto repair shops that achieved the program standards. Napa County recognized four of its initial ten shop participants and Alameda County acknowledged five shops (with another 40 expressing interest). In addition, other counties (Contra Costa, Marin, Santa Clara, and Sonoma) are taking the first steps toward implementing GBPs in their communities.

The National Enforcement Training Institute - The National Enforcement Training Institute's (NETI's) statutory mandate is to provide training for federal, state, local, and tribal environmental enforcement personnel, including attorneys, inspectors, technical staff, and investigators. NETI and its partners trained 9,986 environmental enforcement professionals in FY97. Providing training for state, local, and tribal personnel remained a strong focus of NETI's efforts, as 5,757 students were trained from these organizations. A total of 3,678 federal employees received training, and international students numbered 201. Approximately 89 different courses were offered by NETI and its partners during FY97.

NETI piloted several new courses during FY97. NETI introduced "Environmental Enforcement Negotiations Skills--The Basics," a "Multimedia Inspections" course, and an updated version of the "Basic Inspector Training."

3.3.2 Federal Activities

Region 2

- Throughout FY97, Region 2 worked closely with Brookhaven National Laboratory to obtain the Puerto Rico Energy Council's agreement to accept the MARKAL-MACRO Energy System Model. The Puerto Rico model, which will be the first of its kind in the U.S., will allow the integrated assessment of energy, land use, air quality, and transportation impacts from facilities and energy usage. The results can be depicted accurately in a GIS format.

- Region 2 reviewed 25 environmental impact statements (EISs), including several complex and/or controversial projects (e.g., the Newark Bay CDF, the Felts Mills Hydroelectric Project, the Brooklyn Courthouse Project, and the Relocatable Over-the-Horizon Radar Project), and over 115 other environmental review documents.

Region 10

- Region 10's core TSCA program organized cross-training with U.S. Customs inspectors and input specialists at five ports in Region 10. Educational efforts focused on enforcement and compliance assistance. As a result, there has been a 40 percent increase in telephone calls from U.S. Customs inspectors requesting technical assistance. Also, EPA's core TSCA inspector intercepted a shipment in violation of TSCA §13 and a notice of noncompliance was issued.

- Region 10 reviewed and commented on the Pierce County, Washington Landfill EIS regarding §309 of the CAA. The proposed landfill was to be sited on a forested wetland, adjacent to a creek. EPA found that alternatives presented in the EIS were not adequately analyzed to ensure that the proposed action was the least environmentally damaging possible alternative. EPA's coordination with the U.S. Army Corps of Engineers (Corps) provided instrumental support for the Corp's denial of the §404 permit. Subsequently, Pierce County sued the Corps (EPA was named in the lawsuit) and lost on all counts.

3.3.3 Criminal Program

EPA's criminal program conducts investigations of violations of all environmental laws administered by the EPA. The Agency's criminal investigators also cooperate with other federal, state, tribal, and local law enforcement organizations.

Initiation of criminal investigations are guided by the January 12, 1994, Office of Criminal Enforcement's *Guidance on the Exercise of Investigative Discretion*, which establishes discrete criteria for Agency investigators when considering whether or not to proceed with a criminal investigation. The criminal case selection outlined in the guidance is based on two general measures--"significant environmental harm" and "culpable conduct." These measures, in turn, are divided into nine factors that serve as indicators that a case is suitable for criminal investigation. The guidance is designed to promote consistent but flexible application of the criminal environmental program. Cases that fail to meet at least one of the identified criteria may not be appropriate for federal criminal investigation and prosecution. The guidance requires cases not being pursued criminally to be referred to EPA's civil enforcement arm for administrative or civil judicial action or, where appropriate, to state, tribal, or local authorities for appropriate action.

The Pollution Prosecution Act (PPA) of 1990 authorized a number of enhancements to EPA's criminal enforcement program, including increases in the number of criminal investigators to 200 and a commensurate increase in support staff. By the end of FY97, EPA had increased the number of criminal investigators to 199 compared to 47 in FY89. This additional investment in agents has yielded significant increases in most key areas of the criminal program including 551 cases initiated by the end of FY97.

The Office of Criminal Enforcement, Forensic, and Training (OCEFT) has several areas of primary emphasis where it has focused substantial resources during FY97. Two of these areas are discussed below.

One of OCEFT's priorities deals with the investigation of environmental crimes in environmental justice communities. Each region has identified specific communities by race, ethnicity, or income that bear disproportionate adverse impacts from pollutant sources. In the past two Fiscal Years, more than 30 percent of the cases initiated by the Criminal Investigation Division (CID) occurred in EJ areas or involve industries that have repeatedly committed environmental crimes in minority or low income areas.

Another area of emphasis focuses on potential environmental violations occurring in the Mississippi River watershed. Throughout FY97, EPA participated with DOJ, the United States Coast Guard, and other federal and state entities in environmental task forces in that area. Using traditional law enforcement techniques, as well as strong data and science, a number of CID offices have opened investigations which target the elimination of illegal pollutant discharges along the Mississippi River and its tributaries. These investigations frequently target sources which threaten ecosystems and environmental justice communities. At the close of FY97, CID had opened 164 investigations that involved or had a direct impact on the Mississippi watershed.

3.3.4 Federal Facilities

The primary goal of EPA's federal facility enforcement program is to ensure that all agencies reach a level of compliance with environmental requirements that equal or surpass the rest of the regulated community. To accomplish this goal, EPA uses a three-pronged approach: compliance assistance and training, compliance oversight and enforcement, and review of federal agency environmental plans and programs. This comprehensive approach is designed to help federal agencies develop appropriate compliance strategies and request adequate funding to carry out those strategies. EPA's Federal Facilities Enforcement Office (FFEO) is responsible for ensuring that federal facilities take all necessary actions to prevent, control, and abate environmental pollution. FFEO participates in enforcement negotiations, oversees compliance assistance and enforcement activities undertaken by the regions, and resolves enforcement disputes between EPA and other agencies.

During this past Fiscal Year, EPA issued under all media a total of 29 orders (including field citations) and settled 13 penalty cases against federal agencies collecting $1,011,524 in cash and providing for $2,824,639 in SEPs. Moreover, EPA completed two CERCLA cleanup agreements addressing contamination at two formerly used defense sites with cleanups estimated to cost a total of $35.4 million.

During FY97, there were significant interpretations of some environmental statutes resulting in increased enforcement authority for EPA against federal facilities. For example, in July 1997, DOJ's Office of Legal Council (OLC), in accordance with Executive Order (E.O.) No. 12146, issued a decision resolving a legal dispute between two Executive Branch Agencies--Department

of Defense (DOD) and EPA. This dispute originated from differing interpretations of the CAA specifically, whether federal agencies would be subject to CAA field citations. The OLC determined that EPA has penalty authority against federal agencies for violations of the CAA (not just field citation authority) using the clear express statement standard. This decision is significant because EPA has penalty and order authority against federal agencies provided that the statute is clear. This occurs regardless of whether the waiver of sovereign immunity would be considered broad enough to subject the federal agencies to penalties assessed by those outside the federal government.

Using this clear express statement standard, EPA also has penalty authority for violations of the UST provisions of RCRA. In February 1997, FFEO and the Office of Underground Storage Tanks sent a memorandum to the regions encouraging them to conduct inspections and issue field citations to federal facilities, where appropriate. Approximately 40 inspections have been conducted nationwide in this area, resulting in 18 field citations assessing over $6,650 in penalties. Seven agencies have paid them including DOJ, the Army, the Navy, and the Veterans Administration.

Historically, EPA has emphasized compliance with hazardous waste requirements at federal facilities. Passage of the Federal Facility Compliance Act (FFCA) enhanced EPA's enforcement authority enabling the Agency to pursue federal agencies in the same manner it pursues private parties. In FY97, EPA initiated 14 enforcement actions at federal facilities: nine were written informal, one was a §7003 order at the Washington Navy Yard in the District of Columbia, and four were §3008(a) orders totaling $442,825 in penalties against federal agencies including the Veterans Administration, the Bureau of Indian Affairs (BIA), and the Navy.

Four of these penalty cases deserve special mention as they were settled with civilian federal agencies: the Coast Guard, the National Park Service (NPS), BIA, and the Bureau of Reclamation (BOR). EPA has not traditionally inspected these types of facilities to the degree it has those of DOD. EPA has seen real improvement in DOD RCRA compliance rates as a result of these DOD inspections. For example, the number of DOD facilities with class 1 violations (the most serious level of violation) decreased six percent since 1993. EPA's experience shows that enforcement works as an effective deterrent in the public sector. EPA expects this trend to continue as EPA more systematically inspects civilian federal agencies.

In August 1996, Congress amended the SDWA to provide EPA and states with penalty authority against federal facilities. EPA now has administrative penalty authority to assess up to $25,000 per day per violation of the SDWA against federal agencies. This broad penalty authority is significant because EPA must go to federal district court to pursue similar penalties from private entities. FFEO has issued a draft guidance in FY97 on this matter which became final in June 1998.

After an initial two-year emphasis on outreach, guidance, and EPCRA compliance assistance, EPA is now examining the EPCRA compliance status of federal facilities. To facilitate this initiative, FFEO developed a guidance to address noncompliance with EPCRA at federal

facilities. Approximately ten EPCRA inspections were conducted at federal facilities in FY97 as part of this initiative, with another 25 to 30 inspections expected in FY98.

During FY97, EPA placed particular emphasis on a number of key initiatives including the issuance of the following:

- *Federal Facilities Environmental Justice Enforcement Initiative (FFEJEI)*
- *Implementation Guide for the Code of Environmental Management Principles (CEMP)*
- *Federal Facility Compliance Act Enforcement: Analysis of RCRA Administrative Orders Issued at Federal Facilities*
- *Underground Storage Tank Field Citation Guidance*
- *Improving Communication to Achieve Collaborative Decision Making at Department of Energy Sites*
- *Streamlined Oversight Guidance*, which provides direction to the regions on how to better use their limited oversight resources by streamlining where appropriate.

A nationwide total of 27 multimedia inspections was performed at federal facilities during FY97 in a coordinated effort by EPA and state inspectors. The multimedia inspections took place at four civilian federal agency facilities (USPS, DOJ, Veterans' Administration, and the Department of the Interior [DOI]/BIA), 20 DOD facilities, and three Department of Energy (DOE) facilities.

As required by E.O. 12856, the final version of the CEMP for federal agencies was developed by EPA and published (61 FR 54062, October 16, 1996). The CEMP has been endorsed by all 16 federal departments and agencies covered under E.O. 12856. The CEMP includes five broad environmental management principles developed to address all areas of federal environmental responsibility. The five principles are: 1) management commitment; 2) compliance assurance and pollution prevention; 3) enabling systems; 4) performance and accountability; and 5) measurement and improvement. FFEO completed the *Implementation Guide for the Code of Environmental Management Principles for Federal Agencies* (EPA 315-B-97-001, March 1997), which contains a self-assessment matrix that is proving useful for facilities evaluating where their current management programs are and where they need to go.

In February 1997, the General Counsels of all military and civilian federal agencies received a letter from the Assistant Administrator for OECA and the Attorney General for the Environment & Natural Resources requesting that no federal agency invoke provisions of a state audit privilege or immunity law. Rather, reliance on self disclosure and EPA's Audit Policy should be encouraged. As a result of this letter, DOD issued a national policy instructing each DOD facility to obtain headquarters approval before relying on a state audit privilege or immunity law.

Other environmental auditing-related activities include issuing of the following auditing guidance documents: *Generic Protocol for Conducting Environmental Audits of Federal Facilities* (EPA 300-B-96-012A&B, December 1996) and *Environmental Audit Program Design Guidelines for Federal Agencies* (EPA 300-B-96-011, Spring 1997).

FFEO has been working with other federal agencies on implementing the President's regulatory reinvention initiative with a particular focus on Project XL.

EPA and DOD have initially agreed that Vandenberg Air Force Base in California should serve as the prototype federal facility for Project XL. In 1996 and 1997, EPA worked closely with the Air Force and DOD to complete the Vandenberg Air Force Base FPA. This prototype project will allow Vandenberg to reduce environmental compliance costs and apply the savings directly to pollution prevention programs at the facility.

EPA has completed a focused environmental justice enforcement initiative at federal facilities. This initiative uses the most current TRI data reported by federal facilities coupled with enforcement and compliance data to target facilities in low-income and minority populations for enforcement and compliance actions. As a result of maps generated at federal sites, FFEO is recommending the regions plan and target multimedia inspections and related enforcement activities at the federal facilities identified in the report. The final report is entitled *Federal Facilities Environmental Justice Enforcement Initiative (FFEJEI)* (EPA 315-R-97-001).

Cease Fire

EPA ordered a cease-fire effective May 19, 1997, at one of the largest National Guard training areas in the Northeast in an effort to protect Cape Cod's drinking water from contamination. Region 1 ordered Army National Guard (NGB) to suspend all training activities at Camp Edwards on the Massachusetts Military Reservation (MMR) that could release contaminants to the air, soil, and water on upper Cape Cod. EPA also ordered NGB to immediately begin cleanup of lead and unexploded ordinance from firing ranges and impact area on base. Guard officials said publicly they would comply with the order.

The Cape Cod aquifer is the sole drinking water source for approximately 200,000 permanent and 520,000 seasonal residents of Cape Cod. The MMR Training Range and Impact Area is directly above the most productive groundwater recharge area of aquifer, the Sagamore Lens. Groundwater flows radially in all directions from Training Range and Impact Area. Four towns around MMR look to this region in northern part of MMR to find new water supplies to replace those already lost to groundwater pollution and to fill the gap between supply and demand (expected to be 11 million gallons/day in year 2020).

In May 1996, OECA issued an interim policy and guidance on Environmental Management Reviews (EMRs) conducted at federal facilities. An EMR is an evaluation of an individual facility's program and management systems to determine the extent to which a facility has developed and implemented specific environmental protection programs and plans which, if properly managed, should ensure compliance and progress towards environmental excellence. The interim final policy lays out the definition of an EMR, the operating principles under which EMRs are to be conducted by the EPA federal facility program, and the context in which EMRs will be conducted by EPA for the pilot EMR program that occurred during FY97. Upon completion of the pilot, OECA will study lessons learned for the development of a final EMR policy in FY98.

The following are selected highlights of regional compliance monitoring and assistance activities at federal facilities.

Region 1

With the contractor funding and assistance provided by FFEO, Region 1 was able to organize and conduct six EMRs and prepare six comprehensive EMR reports with suggestions for improvement. These reports have been very well received by the facilities. The region has now conducted a total of 17 EMRs since 1994. The FY97 facilities included the two Army Corps of Engineers facilities in Oxford and South Royalston, MA; two U.S. Coast Guard facilities in Boston and South Weymouth, MA; Acadia National Park in Bar Harbor, ME; and the Vermont Army National Guard facility in Colchester, VT.

Four informational seminars were held for the New England federal facility environmental managers throughout the year. Speakers from EPA Headquarters, DOD Army Environmental Center, and the region discussed the XL ENVVEST program, the new SDWA, the Munitions Rule, and the Range Rule.

Region 2

In addition to frequently providing assistance to all types of federal facilities through routine telephone requests, the region conducted the following compliance assistance activities in FY97:

- ***Region 2 and New Jersey DEP Federal Facilities Workshop*** - This joint EPA and NJDEP workshop was designed to educate federal facility representatives in New Jersey about their state environmental requirements.

- ***Region 2's 1997 Federal Facilities Conference, Federal Facility Environmental Management Strategies Into the 21st Century*** - This regional conference served as Region 2's primary vehicle for informing federal facilities about EPA's regulatory developments and programmatic initiatives.

- ***Region 2 and New York State DEC Federal Facilities Workshop*** - The goal of this workshop was to inform federal facility representatives in New York State about their state regulatory requirements.

- ***Pollution Prevention Opportunity Assessment (PPOA)*** - This PPOA was conducted with the USCG training facility in Cape May, NJ. It was funded by OECA, coordinated by Region 2, and conducted by headquarters. The conclusions and reports are in the process of being issued.

Region 3

Region 3's RCRA office conducted inspections at ten federal facilities including seven located in the Anacostia community-based project. Two of these inspections were multimedia inspections awaiting final reports. Of the remaining eight facilities, complaints will be issued to five facilities and an NOV will be issued at one facility. Two facilities were found to be in

compliance with RCRA regulations. The RCRA program also conducted 11 UST Subtitle I inspections at federal facilities, eight of which are located in the Anacostia area.

Region 4

Region 4 conducted a federal facility multimedia inspection at Redstone Arsenal in Huntsville, AL. The inspection at Redstone Arsenal resulted in an enforcement action by the drinking water enforcement program. The program issued an AO to Redstone Arsenal, based on violations of the Total Coliform Rule (TCR), the Surface Water Treatment Rule (SWTR), the requirements for public notification, and maximum contaminant level (MCL) exceedances. This AO is the first one in the nation to be issued under the 1996 SDWA Amendments using the new streamlined AO process and incorporating language based on the federal facility provisions. This effort was the result of numerous discussions between Region 4, the State of Alabama, and EPA Headquarters.

Region 5

Region 5 hosted the Federal Facilities Multimedia Compliance Pollution Prevention Conference in Chicago, IL, in 1997. This annual conference provides federal facility environmental managers with important information and updates to facilitate more effective and efficient management of federal facilities, and to encourage interaction and exchanges with counterparts.

Region 6

Region 6 conducted two multimedia federal facility inspections. The facilities inspected were Tinker Air Force Base, OK; Corpus Christi Naval Air Station, TX; and Corpus Christi Army Depot, TX. The Annual Federal Facilities Conference was held in September 1997, with 139 attendees and participation from all five state agencies and a League of Women Voters member. Two pilot EMRs were conducted at the Federal Aviation Administration (FAA) and USPS. Two quarterly compliance status reports were issued. Results show eight facilities with SNC status.

Region 7

Region 7 hosted a Federal Facilities Conference in June 1997 for federal agency environmental managers, environmental compliance officers, administrators, and other decision makers. Approximately 100 people attended the conference and received information on current and future environmental regulations, information technology, compliance assistance, and management principles to complement federal facility environmental planning.

Region 8

Region conducted a total of seven multimedia inspections at federal facilities in FY97. The Region 8 states participated in four of the seven inspections. Two of the multimedia inspections were conducted at civilian federal facilities. Overall, six different media programs participated.

Region 8 conducted 63 federal facilities inspections, which is up from the 36 reported in FY96, and inspected facilities of ten different federal agencies, including eight civilian federal agencies.

Region 8 completed 29 technical assistance, compliance assistance, and outreach activities during FY97. The FY97 activities reached more than seven federal agencies (some reached many at once), including at least six civilian federal agencies.

Region 9

Region 9 worked to ensure collaboration on reinvention projects under EPA Project XL and the DOD's ENVVEST. The first FPA in the nation was developed for a regulatory reinvention project at Vandenberg Air Force Base, CA. Agreement for this air quality initiative was reached between the Air Force, EPA, and the Santa Barbara County Air Pollution Control District.

The region conducted two TRI inspections at federal facilities. These inspections clearly raised the visibility of TRI with federal facilities. In general, Region 9 found that most federal facilities are aware of the law and have made efforts to comply. The region also learned how federal facilities work in general and the areas where EPCRA is most likely to apply.

Region 10

The EMR conducted by EPA at Fairchild Air Force Base was successful in many ways, including: providing training on how to perform EMRs to the regional staff; developing a good trusting relationship between the base and EPA; and creating an interest among other bases in the EMR process. One positive change by the Fairchild Air Force Base was to use the root cause analysis approach in their internal audits.

3.3.5 Environmental Justice

EPA has continued policy and field work to raise awareness of environmental justice issues to address the disproportionate burden of exposure to environmental hazards borne by residents in minority and low-income communities. This section summarizes selected accomplishments in Headquarters and the regions.

On April 30, 1997, the six chairpersons of the National Environmental Justice Advisory Council (NEJAC) Subcommittees met with Administrator Browner to discuss the general progress of the national EJ program and to solicit Ms. Browner's help in dealing with other federal agencies covered by E.O. 12898. Discussions included general strategies on how to more effectively work with the agencies and on ideas which might be used to ensure that the Clinton Administration reenforces its support of EJ. Rather than requesting a White House Summit on Environmental Justice, Ms. Browner suggested that the NEJAC contact staff at the White House and arrange for a small meeting with President Clinton.

In FY97, EPA's Office of Regulatory Enforcement (ORE) helped to protect local communities across the nation by assisting DOJ in preparing for the U.S. Supreme Court arguments on behalf of citizens in the *Steel Company v. Citizens For A Better Environment* lawsuit. In the face of a far-reaching challenge to a citizen's right to bring a penalty action for filing late toxic release reports, the federal government argued that citizens are important partners in the government's efforts at enforcing the law to deter violations of these critical requirements. ORE also added support for a citizen's right-to-know in an EPCRA §312 enforcement initiative aimed at the food manufacturing and processing industry, which uses large quantities of hazardous chemicals such as anhydrous ammonia, chlorine, sulfuric acid, and nitric acid. Through the initiative, more than 165 companies corrected their failure to submit information concerning the types and quantities of hazardous chemicals stored at their facilities, which will allow state and local emergency response agencies to respond more effectively in case of an accidental release into the community.

Initiatives such as this serve to further the goals of environmental justice in all communities throughout the nation.

Region 2

- Region 2 has progressed in the effort to incorporate EJ into routine activities. In selecting CBEPs, the region focused on disproportionate environmental burdens on low-income minority communities. In FY97, a draft interim policy was developed to help identify potential EJ areas and implement E.O. 12898. Also, all enforcement personnel received training which included an overview of the EJ movement, regional commitments, and program goals for incorporating EJ initiatives into daily activities.

Region 4

- On October 3, 1996, EPA announced its decision to relocate 358 families away from a toxic waste site the residents had dubbed "Mount Dioxin" that has been leaching dioxin, lead, and other contaminants into the yards of a mostly black neighborhood in Pensacola, FL. The waste site is piled nearly 60 feet high with contaminated soil and covers an area of about four football fields. The community group, Citizens Against Toxic Exposure (CATE), convinced EPA to relocate all 358 families, rather than just those 66 households most affected by the site, the abandoned Escambia Wood Treating plant. The relocation will cost an estimated $18 to $25 million, which has become more cost effective since the site will subsequently be redeveloped for light industrial activity and rezoned non-residential. The relocation process will be supervised by the U.S. Army Corps of Engineers. Once the planning has been completed, the actual relocation will take between two and four years to accomplish.

Region 7

- Region 7's EJ coordinator organized a presentation by a University of Missouri professor on demographics in Region 7. This presentation introduced Region 7 to diversity and community-based concepts and to the special needs of minority populations in the region. The region plans to continue to call upon this type of academic expertise to help focus EJ and CBEP efforts to address the needs of less advantaged populations. Region 7 has developed some pilot demographic maps of the Kansas City metropolitan area highlighting potential EJ communities.

- Region 7 hosted its first EJ recognition day in September, allowing for interaction between Region 7 staff and representatives of EJ and community groups. The meeting recognized the efforts of the regional EJ members, summarized Region 7 EJ successes, and introduced the Region 7 EJ Implementation Strategy. Two local EJ grantees participated in the meeting and briefed Region 7 managers and staff on their community activities.

Region 8

- Region 8's EJ accomplishments included much activity in the public involvement area. The region met with external groups to discuss the impact of community involvement in environmental decision making.

- ***The National Environmental Justice Workshop: The Mile High Summit*** was held in Denver, CO, in June 1997. The workshop was highly attended by regional and headquarters EJ coordinators and managers. Plenary session topics included recent EJ legal decisions/studies, Title VI issues, identifying EJ communities and policy implications, strategic planning and Office of Environmental Justice (OEJ) activities, and state/EPA interface on EJ. Several breakout sessions were held which included topics such as training on EJ (internal audiences, tribal issues, EJ grants, rural issues, Geographical Information Systems [GIS] and National Environmental Policy Act [NEPA]/EJ).

- Also, the region began building an innovative training course for regional employees and state employees and conducted an extensive outreach effort with state environmental programs. Presentations were held for a number of state environmental directors to discuss the basic tenets of EJ and present GIS maps.

3.3.6 *Tribal*

EPA continued to work actively with tribal organizations and entities to ensure that compliance and enforcement of laws and regulations are pursued within tribal lands and communities.

Region 2

- In FY97, the Region 2 UIC program witnessed twelve mechanical integrity tests (MITs) at Class II R wells on Seneca Nation lands (New York). All wells passed the MIT. Also, a training session was conducted on UST requirements. This training was funded by the region, coordinated by the Seneca Nation, and open to all Indian nations in the region. The training included design, installation, closure, and release detection of USTs.

- The Massena area in upstate New York is populated by approximately 30,000 people, some of whom are residents of the federally recognized St. Regis Mohawk Akwesasne reservation. This area is also home to several large industrial sources consisting of electrical power stations, primary and secondary non-ferrous metals production, and a sewage treatment facility in addition to a number of gas stations, automobile service/repair shops, and dry cleaners. Three Superfund sites (GM, Reynolds, and ALCOA) are also located nearby. The St. Regis Mohawks have observed an increasing amount of disease, particularly among younger age groups, which they attribute to environmental pollution. In response, EPA and the NYSDEC have undertaken a compliance/enforcement initiative in the Massena area to ensure that the St. Regis Mohawks are given equal protection under our environmental laws.

Region 4

- In partnership with the Regional Indian Program Coordinator, Region 4 conducted a Tribal Conference with water division staff for the six tribes in the region. Compliance status and regulatory updates were presented to the tribes along with the goals and guiding principles for the remainder of the Fiscal Year. The program also conducted on-site workshops regarding current and upcoming SDWA regulations.

- Region 4 provided assistance to two tribes in the early stages of establishing wellhead protection programs (WHPPs). The region conducted outreach efforts for all of the tribes with public water systems served by groundwater sources and entered into a partnership with the Southeastern Area Office of the Indian Health Service (IHS) to assist with establishment of a WHPP for the tribes.

- During FY97, Region 4 conducted six on-site inspections of tribal public water systems. Four tribal water systems were in significant noncompliance with the lead and copper regulations. As a part of the program's tribal compliance initiative, Region 4 issued bilateral compliance agreements and the four systems returned to compliance.

Region 5

- Region 5 implements the National Primary Drinking Water Regulations at 146 active public water supply systems on Indian lands, including 87 community, 43 nontransient noncommunity, and 16 transient non-community water systems. A total of 897 compliance assistance activities was completed during FY97. Ninety-four compliance activities were completed for lead and copper, 266 for the TCR, and 55 for nitrate. As a result of this assistance, 91.5 percent of the systems required to monitor were in compliance for lead and copper, 84.9 percent for the TCR, and 97.9 percent for nitrate monitoring. The compliance assistance tools used included 469 phone calls, 265 notices sent to systems reminding them to sample, 53 notices of noncompliance/public notice requests, 41 sanitary surveys, and 69 miscellaneous activities. Seven workshops were held for tribal operators with an average of 15 people per workshop. Four newsletters were published and distributed to about 174 customers.

Region 7

- On April 16-17, 1997, the Native American Water Association (NAWA), IHS, and Region 7 sponsored the *Tribal Water Utilities and Safe Drinking Water Act Workshop* for tribal councils, water boards, utility managers, and water operators. Annual compliance awards were given to water systems that have met the monitoring and reporting requirements and MCLs for total coliform bacteria, phases II/V chemicals, and lead and copper. Region 7 staff answered questions on the SDWA amendments.

- In July 1997, Region 7 held a well plugging demonstration on tribal lands for tribes, BOR, BIA, IHS, Farm Bureau, NRCS, and well plugging authorities from Missouri and Nebraska. Twelve well sites on the Kickapoo reservation, including four that have already been plugged, were visited. Of the remaining eight sites, most are being considered for possible future use. At least three wells appear to be good candidates for plugging.

Region 8

- Region 8 conducted 668 inspections on Indian land in FY97. This represents an increase of 168 inspections. The UIC and UST programs expanded their inspection work in FY97, accounting for most of the increase.

- Marty Indian School is located on the Yankton Sioux Reservation in South Dakota. In 1995, oil spills occurred at the school. Although Region 8 conducted removal activities, contamination existed at the school even after the removal work. A CBEP activity was beginning to address these concerns in FY96. There was information that a number of CWA, OPA, and RCRA compliance concerns existed at the school. The region performed a multimedia inspection at Marty Indian School in October 1996. The team also did compliance work at a tribal gaming facility near Wagner, SD.

As a result of the compliance inspections and other concerns related to ash disposal from the boiler heating unit, particularly at an escarpment adjacent to Mosquito Creek, a tributary to the Missouri River, EPA undertook a major environmental assessment at the site.

Results from this investigation are still not final, but draft reports have been prepared and shared with the tribe, the community group, the IHS, and the BIA. The findings indicate that the ash contains high levels of lead (up to 5.9 percent) and low levels of chlorinated furans, which are potentially toxic and carcinogenic substances. Chlorinated materials were found in a holding tank containing septic materials. Soil samples contained high levels of lead and tetrachloroethylene as well as petroleum hydrocarbons.

Results from the investigation are being implemented. Boiler maintenance workers are cognizant of the toxic nature of the ash. The BIA is discussing installing better boilers in the school, and safety equipment was made available to maintenance staff when handling the ash. EPA will suggest ideas for the tribe to consider regarding contaminated soil from the storage tank facility, removing the ash, and other safety and environmental concerns. A meeting with the community group will be held in the winter of 1998 to discuss the final report and next steps.

- Region 8 provided multimedia training to the Turtle Mountain Band of Chippewas in North Dakota. The tribe received training on TSCA (PCBs mostly), NPDES, and RCRA requirements. About 20 tribal people attended this training. Training was also given on Emergency Planning Awareness and Introduction to Operations. Members from Environment Canada and Canada's First Nations (tribes) involved with emergency planning attended the session, as did Turtle Mountain tribal representatives.

- Region 8 hosted a regional operations committee (ROC) meeting on February 13, 1997. The ROC represents the 27 regional tribes on environmental issues. The thrust of the meeting focused on enforcement issues relative to tribes. About 60 tribal representatives attended this meeting in which they posed questions regarding EPA's inspection, compliance, and enforcement programs. Tribal representatives also raised specific concerns related to environmental issues on their reservations. EPA responded to or addressed these questions and provided the ROC with written information.

Region 9

- Eleven new tribal air grants were awarded during FY97, bringing the number of Region 9 tribes with air grants to 13. The region also awarded air grants to the National Tribal Environmental Council to facilitate tribal participation in the Western Regional Air Partnership; to Northern Arizona University to facilitate tribal participation in the Western Governors' Association Air Quality Initiative; and to the Intertribal Council of Arizona to develop air quality educational materials for tribal community members.

- Region 9 conducted a basic hazardous waste generator compliance assistance workshop in Mesa, AZ, specifically designed for Indian lands. This workshop was attended by members of five Arizona tribes. Since the workshop, the region has received requests from other tribes for similar training.

- Through a cooperative agreement, the Navajo Nation Environmental Protection Agency (NNEPA) continues to conduct asbestos compliance monitoring inspections at all regulated schools within the Navajo Nation and to provide compliance and technical assistance. NNEPA also continues case development training. EPA is following up on Notices of Noncompliance (NONs) issued to several schools inspected by NNEPA. Most of the NONs were issued to BIA schools.

- Region 9 provided assistance to the IHS and the following tribes: CRIT, Fallon, Campo, Salt River, Gila River, Ak-Chin, Navajo, and Hopi. Considerable emphasis was placed on working with the Navajo Nation and the Hopi on aboveground storage tank (AST) and oil spill issues, resulting in 15 joint inspections on a wide range of facilities and one site assessment. Training for Navajo and Hopi and BIA inspectors was also provided. SPCC and OPA compliance data from the facilities were reviewed and assessments of each facility were prepared for enforcement determinations. Three of these inspections were conducted with the Navajo Nation AST program at the Mobil McElmo Creek & Ratherford Units and the Texaco Aneth Unit facilities in cooperation with Region 9 Water Division (due to the issuance of CWA AOs at these facilities). The findings of these inspections support DOJ referrals for the Mobil and Texaco Aneth oil production field cases mentioned above.

- In FY97, twelve inspections were conducted on lands of seven tribes. The inspection of the BIA (DOI) on Hoopa land resulted in an administrative complaint. The inspection of Allen Moore Diversified on Gila tribal land led to both an administrative case and a criminal indictment. Also, a hazardous waste generator compliance assistance workshop was conducted specifically for tribes in Mesa, AZ. Members of five Arizona tribes were in attendance and requests have been made to EPA by other tribes for similar training.

3.4 Media-specific Programs

As demonstrated throughout this document, EPA has developed several different initiatives focusing on very specific segments of environmental protection (e.g., CBEP, industry sectors). Through its specific media programs, EPA is using all of its available tools (e.g., compliance assistance, compliance monitoring, and enforcement) to ensure the overall quality of environmental performance remains high. These programs ensure that all regulated entities comply with their environmental requirements, regardless of their specific sector, size, or location.

This section presents the Agency's enforcement and compliance assistance highlights and accomplishments in each of the media-specific programs. The following sections present information on these media-specific programs:

- Air
- Water (drinking water, NPDES program, and wetlands)
- Toxics, Pesticides, and EPCRA
- RCRA
- CERCLA.

3.4.1 Air

The Agency's air program has the responsibility of ensuring that the United States and its territories maintain a high level of air quality. The program accomplishes this task by ensuring compliance with the CAA and its implementing regulations. In FY97, priority was placed on obtaining compliance by permitted sources in non-attainment areas, especially for air toxics. Headquarters and the regions conducted inspections, initiated enforcement actions, and provided compliance assistance under many specific programs, including:

- MACT/Reasonably Available Control Technology (RACT)
- NSPS and new source reviews
- HONs.

All totaled, the regions conducted 2,948 inspections under the CAA; initiated, referred, or settled 608 enforcement actions; and conducted 2,303 compliance assistance activities that reached more than 18,000 entities.

Availability of Emissions Data For CAA Enforcement: OECA and the Office of Air Quality Programs and Standards completed a draft of the Compliance Assurance Monitoring (CAM) rule. The CAM rule will require major sources of pollution to install better monitoring systems (i.e., direct emissions monitors or monitors of key parameters that control emissions). OECA ensures that data developed under the CAM rule would be fully available to enforcement agencies and the public for detecting and prosecuting emissions violations.

Cleaner Fuels Initiative: In FY97, the Mobile Source enforcement program continued its extensive efforts to enforce requirements for motor vehicle fuels. Those requirements, which include reformulated gasoline, fuel volatility, and the limitation on sulfur in automotive diesel fuel, are intended to reduce the amount of harmful pollutants, such as CO, PM, and ozone-forming gases, discharged from motor cars and trucks. EPA estimates that together these requirements will reduce PM emissions from cars and trucks by 25 percent and VOCs by 15 percent. EPA conducted over 2,000 inspections of gasoline terminals, retail gasoline stations, and commercial fleets to determine compliance with the various motor vehicle fuel requirements. As a result of these inspections and other compliance monitoring activities, the program issued 87 NOVs. The program also settled 56 enforcement actions for over half a million dollars in civil penalties. Three significant cases include: a $128,000 settlement with Amoco Corporation for producing 4.4 million gallons of gasoline at one of its refineries that did not meet the quality requirements for reformulated gasoline; a $65,398 settlement with Murphy Oil, USA, for producing and selling 5.3 million gallons of gasoline at one of its refineries that exceeded the maximum allowable volatility limit; and a $48,600 settlement with E-Z Serve for delivering gasoline to retail stations on 18 separate occasions that exceeded the maximum allowable volatility limit.

Urban Bus Fleet Initiatives: Particulate matter (PM) is a major health problem in urban areas that can cause lung disease and other health problems. The CAA requires public bus fleets in major urban areas to install pollution control equipment on rebuilt engines to reduce fine particulate emissions.

In FY97, the mobile sources enforcement program began an enforcement initiative to ensure that public bus fleets installed proper pollution control equipment. Ten investigations were conducted at bus facilities in major urban areas, including Washington, DC, Denver, Los Angeles, Chicago, Houston, Phoenix, and New York. These investigations led to the issuance of seven NOVs. As a result of these investigations and actions, EPA has observed a substantial increase in awareness and compliance with the urban bus retrofit requirements by bus fleets throughout the country.

At a national level, EPA operates the Applicability Determination Index (ADI), which is a database that contains memoranda issued by EPA on applicability and compliance issues associated with the CAA regulations. EPA created an ADI website to provide easy access to this information which is valuable to regulatory agency officials and environmental management professionals. The website provides access to over 1,500 determinations that explain how particular regulations are to be interpreted, and how they apply to specific facilities and to industry as a whole. Regular updates to the database ensure that users will always have access to the most current information. The ADI can be accessed on the Internet via http://es.epa.gov/oeca/metd/index.html/.

In a joint effort, Regions 3, 4, 5, and headquarters are working on an initiative directed to unpermitted modifications of major power plants that may have resulted in increased NOx levels which are of significant concern to Region 3 given its ozone problem. In a cooperative effort, the

regions and headquarters have begun an in-depth investigation of 26 facilities. Seven of these facilities are located in West Virginia and Pennsylvania. Independent information on construction projects has been gathered from many sources including public utility commissions, DOE databases, construction reports, and EPA databases.

Some of the specific regional accomplishments are presented below:

- Region 1's Air Unit conducted 28 inspections in FY97. Twenty-five notifications of noncompliance were issued. Approximately one-third of the violations were attributed to equipment deficiencies. Due to this high rate of noncompliance, in FY98 EPA will coordinate with the Northeast States Committee for Air Unit Management (NESCAUM) to develop an enforcement initiative. This is aimed at promoting consistency in addressing stage II violations and addressing the chronic failure to maintain equipment which has significant emissions of both ozone precursors and air toxics.

- Region 2 conducted comprehensive audits of the identification and resolution of significant air violations by New York State and New Jersey. In response to the region's findings, the NYSDEC completed a similar audit of the entire state air program, identifying approximately 300 violations, of which 50 were significant violations.

  The region also developed and delivered a comprehensive air training curriculum and transition program to transfer responsibilities for the air compliance and enforcement program to the region's new Caribbean Environmental Protection Division. This transfer will enable EPA to increase the compliance monitoring frequency for Caribbean facilities and decrease the time and cost of bringing violating sources into compliance, ultimately reducing pollution levels.

- Region 3 worked with headquarters on a compliance video for CAA §608 and mailed an industry specific "how-to" compliance assistance guidance document to all commercial ice manufacturers in the region (approximately 30).

- Region 5's FY97 ozone non-attainment area activities included compliance monitoring, enforcement, and securing additional emission reductions through SEPs. Thirteen finalized consent decrees and CACOs resulted in a 4,000 tons per year NO_X emission reduction and a VOC emission reduction of 292 tons per year. SEPs achieved additional VOC and NO_X reductions of 143 tons per year and 37 tons per year, respectively.

- In Region 8, one citizen received an award under the Citizen Award program. As part of the award, which was $5,500 for providing information leading to a significant settlement of a NESHAP asbestos case, a press release was issued to inform the public and regulated community of the existence of the Citizen Award Program and that it is being used in the region and across the country.

- Region 9 established a Source Test Quick Response Team to address Chrome NESHAP compliance problems. The team developed a protocol to regulate chromium emissions from electroplating and anodizing shops in California. The result is a more efficient means to review source tests and to ensure compliance with the Chrome NESHAP.

- Region 9 was involved in CFC Smuggling Workshops presented to agents from U.S. Customs, the Federal Bureau of Investigations (FBI), and EPA CID. The workshops and subsequent training video and manual inform participants about CFC smuggling and methods to prevent the crime. The Stratospheric Ozone Team also began efforts for a project to implement the Stratospheric Ozone Program, including the CFC smuggling and refrigerant recycling programs in Guam.

- Region 9's Stratospheric Ozone Team has made it a priority to inform the public about stratospheric ozone depletion and the harmful effects of exposure to the ultraviolet (UV) light from the sun. Public information efforts included projects such as the UV Index-Major League Baseball Project, in which three major league baseball teams agreed to post scoreboard messages about the UV Index and recommended precautions provided by EPA.

- Region 9 Air program performed 137 inspections and took several enforcement actions. These actions included several ground breaking efforts: the first actions issued under the Non-Essential Products Ban for illegal use of ozone depleting substances in production of foam products; the first actions under the Significant New Alternatives Policy for illegal use of a refrigerant substitute; and the revocation of several refrigerant reclaimer certifications through a Federal Register Notice.

3.4.2 Water

Protecting our nation's water resources has been an ongoing activity in this country for more than 100 years. Legislation to prevent pollution of the oceans, rivers, lakes, and stream was enacted long before EPA existed. Today, protection of those same resources remains a high priority for EPA and its state partners, who strive to maintain that protection through the implementation of two water-related programs, one for drinking water and one for industrial or municipal discharges to surface waters.

Priority was placed on the TCR under SDWA, sensitive wetland ecosystem protection, and wet weather flow problems which might cause the release of contaminated storm water. The following sections detail some of the activities accomplished in FY97 in both of these programs.

In addition, EPA's water program also has responsibility for enforcing against entities who engage in activities that destroy or alter wetlands. Working in conjunction with the U.S. Army Corps of Engineers, EPA uses authority granted to it in the CWA to ensure such activities do not occur, and if they do occur, that they are addressed and mitigated. Section 3.4.2.3 discusses EPA's activities in FY97 related to protecting wetlands.

3.4.2.1 Drinking Water

EPA's drinking water program is responsible for establishing mandatory and comprehensive national drinking water quality standards. The goal of these standards is to ensure the nation's public health is not endangered by drinking water of unacceptable quality. EPA is responsible for developing the National Primary Drinking Water Regulations and policies and helping the state implement and enforce the requirements.

In FY97, the drinking water program undertook several initiatives to ensure that drinking water remained, or became, safe to consume. The following are some of the accomplishments from the last Fiscal Year.

In FY97, three pilot projects were completed with grant money provided by OECA and the Office of Groundwater and Drinking Water, which assisted small and very small public water systems to improve their compliance with SDWA. These projects were implemented by: Colorado Department of Health and the Environment; Iowa Department of Natural Resources; and the Alaska Water and Wastewater Management Association.

Two of the projects, Colorado and Iowa, focused on the Total Coliform Rule (TCR). The TCR was selected because of its importance in detecting the presence of potential microbiological contamination to drinking water. Both projects matched public water systems with excellent compliance rates with small and very small public water systems with poor compliance rates. In addition, Iowa used Iowa Rural Water Association (IRWA) circuit riders as mentors. The mentors provide assistance through site visits and phone calls to identify problems and remind operators to take samples, to assist with sampling and analysis, and to provide training. Approximately 60 percent of the non-compliant systems in the Colorado pilot came into compliance. In Iowa, 280 systems received technical assistance, and 89 percent of the systems who received assistance were in compliance for the subsequent monitoring period.

Due to the different needs of Native American villages in Alaska, the Alaska project focused on a variety of more site-specific technical assistance needs. Systems in noncompliance were matched with mentors who were in compliance, had more expertise in water treatment, and were located in the same geographical area. Four remote village operators participated. Mentors visited the villages to become familiar with their systems. Some of the mentorees went to the mentors' communities to observe and participate in the operation of the larger, more complex systems. Strong mentor/mentoree relationships were established and efforts to correct specific problems through one-on-one training were successful. Another mentor provided instruction on how to optimize filter performance and how to conduct proper TCR sampling.

In addition, headquarters and the regions continued their compliance monitoring, enforcement, and compliance assistance activities under SDWA. Specifically, the Agency:

- Conducted 5,490 inspections
- Initiated, referred, or concluded 564 enforcement actions

- Conducted 3,188 compliance assistance activities, reaching more than 1,742 entities.

These activities focused on the TCR, lead and copper rule, UIC, nitrates/nitrites, and Class V wells.

The following are examples of some of the specific activities conducted by the regions:

- Region 3 worked with the states to identify those groups of systems that had not started initial lead and copper monitoring. This led to multiple enforcement actions in each state. Nearly all of the systems have since started monitoring and the states have viewed the region's intervention as beneficial to moving cases toward compliance.

- Region 5, in coordination with the USDA, has initiated a project to study the impacts of agricultural drainage wells within the Illinois River Basin. Contacts are being made at the county level to identify landowners willing to participate in a program of monitoring current discharges and testing possible alternative techniques, such as best management practices (BMPs), to help identify better ways of protecting groundwater. The Illinois River flows through 19 counties with a combined population of over 700,000 people.

- Efforts to address the problems in Region 6 at the colonias continued in FY97. Several activities were undertaken during the year. A complaint and consent decree was filed against the developers to settle the Cuna del Valle colonia case. Several trips were taken to the colonias to identify more colonias that might be potential enforcement candidates. A draft report was submitted and is being reviewed by EPA. Six colonia developers were identified as owning colonias with similar conditions as the Cuna del Valle colonia. Letters were drafted requesting that the developers call EPA to discuss the situation in an effort to come to an agreement that might be beneficial to the colonia residents.

- Region 7, the Nebraska Department of Environmental Quality and the Kansas Department of Health and Environment implemented a voluntary program to identify contamination of groundwater near commercial grain elevators. The goal is to identify the contamination before it reaches nearby public wells. A brochure which describes the contamination problem due to carbon tetrachloride and provides a brief description of the voluntary program was mailed by the Kansas Grain and Feed Association (KGFA) to more than 500 members.

- The Region 8 Class V team planned and began implementing initiatives in Montana, South Dakota, and Colorado to target communities for the purpose of locating and inventorying facilities with Class V injection wells on site, and assist the regulated community in coming into compliance with UIC Class V program requirements. Each initiative involved the following steps:

  - aquifer vulnerability assessment to locate in each state the aquifers most vulnerable to contamination from Class V wells

- selection of target community(ies) for each state based on aquifer vulnerability
- meetings with state and local officials in target communities to explain the Class V program and how it will be implemented during the course of each initiative
- identification of possible facilities that might have Class V wells located on site
- mailing of inventory questionnaires to collect information from each identified facility owner/operator to determine whether a Class V well is located on site
- follow-up activities from inventory responses, which include a second mailing to non-responses, inspections to verify responses, and sending a permit or close letter to facilities with Class V wells.

3.4.2.2 Industrial or Municipal Discharges to Surface Waters

Through the CWA, and specifically the NPDES program, EPA regulates the discharges of industrial and municipal wastewaters to surface waters of the United States. This program requires that most wastewater be treated to certain levels prior to its discharge into rivers, lakes, and streams. In FY97, the Agency:

- Conducted 3,368 inspections (majors, minors, and §311)
- Initiated, referred, or concluded 1,482 enforcement actions
- Conducted 4,727 compliance assistance activities, reaching more than 12,800 entities.

The following illustrates some of the specific accomplishments within the NPDES program in FY97:

- Region 1's Water Program has used the §308 authority for a variety of enforcement activities, not purely for information gathering purposes. Some noncompliance situations demonstrating a potential environmental risk may require swift and efficient enforcement mechanisms. The §308 authority has enabled the region to be efficient and streamlined for very specific enforcement needs in achieving timely compliance. For example, the ten §308s issued for sludge violations *ordered* the facility to remove the illegal storage of municipal sludge. Similarly, 14 of the 17 SPCC §308 letters *ordered* facilities to submit schedules to return to compliance.

- Region 1's Center for Environmental Industry and Technology (CEIT), in conjunction with the U.S. NRCS, hosted storm water technologies trade shows in Ipswich and Plymouth, MA, which were attended by more than 300 people. The trade shows featured company presentations, as well as state-specific information on Massachusetts storm water regulations and policy guidelines. The objective was to provide the latest information on available and affordable technologies to local planners, engineers, and town officials.

- Region 4's Collection Systems Workgroup developed an Enforcement Response Guide (ERG), which provides guidance on how the region will respond to SSO-related unpermitted discharges and permit violations. It also completed the development of

screening criteria to aid in identification and prioritization of problem collection systems. The screening criteria were applied to all major facilities in Georgia.

- Region 5 implemented a CSO inspection program and developed a CSO inspection checklist, which was shared with states and headquarters. The inspection checklist has been adopted by several Region 5 states and will be utilized to conduct inspections in FY98. Compliance assistance was an integral part of the CSO inspections.

- Region 6 conducted 206 inspections in FY97 to determine if facilities were compliant with the storm water regulations. Region 6 also provided assistance through an estimated 600 telephone conversations with individual facilities, consultants, state agencies, and concerned citizens. The region provided additional technical assistance to 600 publicly owned treatment works (POTWs) with design flows of one million gallons per day (MGD) or greater through distribution of reporting forms to facilitate annual submittals.

3.4.2.3 Wetlands

EPA has been heavily involved with several regulations regarding wetlands, including the Corps of Engineers' nationwide permits and a USDA regulation implementing the 1996 Farm Bill. The revisions to the nationwide permits were published, as were the USDA regulations. At the regional level, several regions have been developing and implementing wetlands strategies with ambitious goals and objectives. In FY97, the regions conducted 529 wetland-specific inspections. The following are examples of other wetland-related initiatives:

- In FY97, Region 1 continued previous efforts to focus on wetlands enforcement, particularly in the South Coastal, MA, area. Nine multimedia inspections were completed and three enforcement actions were issued.

- In Region 4, a grant was issued to the North Carolina Department of Environment, Health, and Natural Resources for $214,360, a portion of which is targeted for state compliance inspections and enforcement. Specific enforcement activities to be undertaken by the state are: defining §404/401 inspection/enforcement sites; determining appropriate legal avenues for enforcement and coordinating with legal staff; developing compliance/enforcement policy for the state; writing an enforcement "shell;" and taking enforcement actions, when necessary.

- Region 5 initiated 34 new enforcement actions seeking the removal of dredged and fill materials and the restoration of 1,072 acres of wetlands and critical habitat.

  Region 5 also completed 17 enforcement cases, which resulted in the environmental restoration of 137 acres of wetland and other critical habitat. A majority of the concluded enforcement cases (12 of 17) are located within the Upper Mississippi River Basin. These cases address a total of 35 acres of environmental restoration of wetlands and other critical habitat. In addition, a total of five compliance assistance actions was completed

with commitments to obtain §404 permits for potentially 218 acres of wetland throughout Region 5.

3.4.3 Toxics

In FY97, EPA placed priority on enforcement and assistance to further compliance with an expanded chemical reporting list under EPCRA §313, and emergency preparation and community notification requirements under EPCRA §§302-312. The following sections provide the FY97 accomplishments for activities under the three statutes that comprise EPA's toxic substances program.

3.4.3.1 EPCRA

The purpose of EPA's EPCRA program is to ensure that regulated facilities meet their emergency planning and community right-to-know requirements. A large part of EPCRA involves providing information to EPA that is then loaded onto the TRI database, which is available to the public. Facilities are required to report the amounts of certain extremely hazardous substances they either manufacture, store, or use onsite, as well as how much wastes are generated, treated, or shipped offsite.

A large part of EPA's responsibilities includes locating non-reporters and getting them to report the required information. Historically, this has been performed using enforcement actions, but recently, EPA has been conducting significant outreach to the regulated community, both to get them to report and to help them report correctly. In FY97, the Agency:

- Conducted 911 inspections (473 under §313; 438 non-§313)
- Initiated, referred, or concluded 680 enforcement actions
- Conducted 6,749 compliance assistance activities, reaching more than 16,800 entities.

At the national level, the ORE Toxics and Pesticides Enforcement Division completed an EPCRA §312 industry-wide sector compliance incentives initiative. Section 312 benefits the public by requiring the annual submission of data about hazardous chemicals stored onsite to state and local government emergency responders who use the information to plan for and react to chemical accidents or releases. The new initiative increased the data that state and local emergency responders receive from food manufacturers and processors. One hundred sixty-eight companies submitted hazardous chemical data, thus taking advantage of EPA's time-limited offer to reduce penalties for EPCRA violations in exchange for such information. Facilities that initially failed to provide the information were given a second, time-limited opportunity to come into compliance while paying a greatly reduced penalty of $2,000. Incentives such as these are crucial to local communities in developing and implementing emergency response plans and increasing community awareness of imminent chemical hazards.

In addition to the above compliance monitoring and enforcement activities, EPA also conducted extensive outreach, training, and compliance assistance to the EPCRA regulated community. The following are some examples of those efforts:

- As part of a national goal to ensure that facilities are reporting on a timely basis and that release information is reasonable, Region 2 implemented compliance inspections with special emphasis on data quality. Region 2 conducted 85 inspections (including 18 data quality and two federal facilities inspections).

  In accordance with priorities to advocate the use of the TRI data, Region 2 provided information to more than 2,000 public stakeholders on how to access TRI data and their rights to obtain information. In addition, Region 2's program invited more than 1,600 facilities to attend ten compliance assistance seminars and a three-day EPCRA "train the trainer" session in New York City. The compliance assistance seminars were coordinated with state representatives in the pollution prevention programs, as well as with the stateTRI programs. Presentations of other federal regulations that might affect the TRI reporters were also coordinated.

  Region 2 SEPs resulted in the reduction of over 300,000 pounds in emissions to the environment and provided needed chemical fire response equipment to the local emergency response committee in Rockland County, NY.

- Region 3 mailed 743 compliance assistance letters and responded to numerous phone calls from facilities. Also, 355 sector agreement packets were mailed to facilities. As a result of the sector agreement mailing, 12 facilities signed sector agreements. The program also held nine workshops on EPCRA §313 to ensure the regulated community is familiar with TRI reporting procedures and is prepared to complete form reports. The program also responded to about 300 phone requests for information generated by publicizing a Region 3 TRI contact.

EPCRA Seminar Evaluations

A review of Region 2's voluntary seminar evaluation questionnaire, used during outreach activities, indicated:

- 10 percent of the participants discovered they no longer need to report to TRI,
- 15 percent indicated they found out about new TRI chemicals for which they will need to report
- 19 percent indicated they learned about newly regulated chemicals.

The response also showed that 53 percent of the participants report for 1-5 TRI chemicals, 20 percent report for 5-10 chemicals and 15 percent report for more than 10 chemicals.

In addition, more than 55 percent indicated they would consider reviewing the reporting process at the facility and 70 percent indicated they learned of the latest regulatory changes affecting their facility. Finally, 87 percent indicated they would consider attending the seminar if offered again next year.

- Region 4 had a total of 32 SEPs negotiated with respondents under the §312 initiative. Most of these settlements resulted in the purchase and donation of emergency response equipment for local fire departments.

  In FY97, Region 4 continued to provide compliance assistance activities largely through CAMEO training and software distribution at the state and local government level. There were 23 CAMEO training sessions conducted for 438 attendees.

- Region 5 mailed 3,947 "screening" compliance packages. From the packages, the region determined 451 facilities were in compliance; 1,798 facilities were not required to report; and 335 packages were undeliverable. The region also mailed 1,363 "show cause letters." From these letters, 49 facilities signed sector agreement for reduced penalties to come into compliance; 614 facilities were not required to report; 72 facilities were in compliance; and there were 155 undeliverable packages. Four hundred and four facilities did not respond.

- Region 6 is continuing the pilot study consisting of the TRI data quality analysis technique, which began by targeting xylene releases in Texas. This methodology has uncovered several major violations without the necessity of an initial on-site visit.

- During April and May, Region 7 held TRI compliance assistance workshops for 580 members of the regulated community. The workshops were primarily for the purpose of providing training to industry in completion of the Form R, but also covered other reporting requirements of EPCRA and CERCLA §103. Information also was provided on pollution prevention, risk management plans, and various enforcement policies, such as the Agency's Policy on Voluntary Self-Policing.

- Region 9's EPCRA program completed a mailing to 1,800 pesticide formulators, an industry segment that the region had not focused on previously. The region also made a presentation at a training workshop in Arizona and worked with University of California San Diego to present 15 training sessions throughout the region, reaching over 400 attendees. In addition, the region responded to 382 calls for technical assistance.

  A key goal of the region's TRI program in FY97 was to publicize TRI initiatives to improve industry compliance and to inform the public of the value of TRI as a tool.

  A major focus of Region 9's operating plan for the second half of FY97 was to increase use of TRI data by other EPA programs and by the public. The region drafted an outreach starter kit and a public brochure directed toward communities who want to use TRI data. Region 9 awarded a grant to Communities for a Better Environment to train other community-based organizations in the Los Angeles area on the use of TRI data. The region conducted three TRI training sessions for other Region 9 offices. Region 9 made similar presentations for the local HUD office and for a delegation from Nigeria.

3.4.3.2 FIFRA

Since its inception in 1970, one of EPA's primary areas of responsibility has been pesticides. Charged with protecting human health and the environment from the dangers identified in Rachel Carson's *Silent Spring*, EPA regulates the manufacturers and users of all pesticides, including fungicides, insecticides, and rodenticides. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and its implementing regulations are EPA's primary tool for ensuring safe production and use of pesticides. In addition, there is a worker protection component of FIFRA that ensures that all workers who may be exposed to pesticides are provided the proper warnings and precautions, as well as safety equipment. In FY97, EPA placed priority on Worker Protection Standards (WPS) and new chemical exposure limits. The following discussion describes accomplishments in EPA's pesticide programs.

Specifically, in FY97, headquarters and the regions:

- Conducted 207 inspections
- Initiated, referred, or concluded 348 enforcement actions
- Conducted 2,833 compliance assistance activities, reaching more than 4,100 entities.

The Agency conducted these activities within several specific programs, including worker protection, labeling, urban pesticide misuse, and good laboratory practices (GLPs).

Under FIFRA, the GLP standards assure the quality and integrity of data submitted under FIFRA. For the third year in a row, OECA conducted a record number of lab inspections (127) and audits (480) to ensure chemical companies were in compliance with the GLPs. In addition to the inspections, OECA completed a multi-year project with the Food and Drug Administration (FDA), the American Chemical Society, and the Society of Quality Assurance resulting in a televised satellite compliance assistance program on GLP field studies and analytical chemistry. Finally, OECA played a prominent role in revising the Organization for Economic Cooperation and Development (OECD)'s *Principles of Good Laboratory Practices*.

In FY97, EPA addressed an issue of growing importance under FIFRA: the increased number of household disinfectants designed to kill bacteria, fungi, and viruses. An estimated 5,000 antimicrobial pesticides have been registered thus far with approximately 3,000 making claims of public health protection. Also, since the beginning of 1996, approximately 150 new products have been marketed with antibacterial claims, nearly double the number launched in 1995. To address this growing problem, the ORE Toxics and Pesticides Enforcement Division has taken enforcement actions over the past year against two companies that have been selling products that make claims that they protect against infectious bacteria and germs, and the product is not specifically registered with EPA for that purpose. Headquarters is also working closely with the Office of Pesticide Programs to draft a Pesticide Registration Notice to clarify the treated article exemption language to prevent other companies from making similar claims in the future on unregistered products.

The following are some of the highlights for FY97 from the regional FIFRA programs:

- In FY97, Region 2 issued its first civil complaint under the WPS. This complaint was for noncompliance by a farm (Tropical Fruits, SE) in Puerto Rico, and represents the first and only case against a farm for a use violation under the WPS.

- During FY97, Region 4 conducted numerous training courses and conferences. One of the highlights was a conference/training course developed by Region 4 and headquarters as part of the Urban and Residential Pesticide Control Program. This national enforcement conference addressed the implementation of the urban program and the response to actual incidents involving the indoor use of agricultural pesticides. The meeting utilized mock inspections to give the participants the real-world feel for the field activities associated with methyl parathion investigations. The training course also included a presentation on press-related activities and communication strategies, corporate product stewardship, health-related activities, and a database developed by the Mississippi Department of Health.

  Region 4's work on the Florida Mosquito Control White Paper was concluded during FY97. The white paper was initiated to capture the true nature of mosquito control efforts in Florida and identify issues and problems associated with mosquitocide applications. A pesticide stewardship component was incorporated into the white paper as a means of reducing any associated risks to human health or the environment. Contributors to the white paper included regulators, researchers, and applicators from federal, state, and local entities.

- Region 5 conducted a compliance assistance/outreach initiative by sending a flyer to all 3,500 registered pesticide producing establishments in the region. The flier stated that the annual Pesticide Production Report had to be mailed to the company's headquarters by March 1 to be in compliance with Section 7 of FIFRA. The region responded to approximately 150 calls as a result of this flier. The number of pesticide establishments who failed to comply with the March 1 deadline was lower than the previous years. The region believes that this was largely due to the compliance assistance and follow-up efforts. 280 notices of warning were issued to companies who failed to submit the reports. Notices of Intent to Terminate Establishment Numbers were sent to companies who failed to respond to the warning letters, and civil complaints were issued to those companies that had a history of noncompliance.

- Region 5 also executed a search warrant at the residence of Ruben Brown as a part of the urban pesticide misuse initiative. The search recovered many gallons of methyl parathion, ledger books of Mr. Brown's customers, and several pesticide sprayers. Since the time of the warranted search, the region has been primarily responsible for:

- Assisting CID in the successful prosecution of Ruben Brown. (Mr. Brown plead guilty on July 24, 1997, to two counts of using a registered pesticide in a manner inconsistent with its labeling.)
- Creating and leading environmental sampling teams, who have sampled 859 homes.
- Contacting the people (approximately 1,000 addresses) listed in Mr. Brown's records.
- Coordinating/facilitating the flow of information regarding the environmental sampling.

3.4.3.3 TSCA

TSCA is the primary statute that regulates the manufacture and sale of toxic substances in the United States. In addition to providing such controls, it also regulates several toxic substances in our environment, including lead and PCBs. In FY97, priority was placed on human health protection with an emphasis on compliance assistance and enforcement for new and established lead-based paint requirements. This section details the FY97 accomplishments in three areas: 1) Core TSCA, which deals with the manufacture and sale of toxic substances, 2) lead, and 3) PCBs.

The Office of Regulatory Enforcement Toxics and Pesticides Enforcement Division completed a national one-time TSCA Compliance Audit Program (CAP) enforcement initiative to gather reports of substantial risks from toxic chemicals. Under TSCA §8(e) CAP, EPA received more than 11,000 previously unreported studies or reports from 89 companies on chemicals that may present a substantial risk of injury to health or the environment. The 11,000 studies submitted during the CAP process account for 80 percent of all submissions received throughout the §8(e) program's history. The Agency assessed a total of $22,764,000 in civil penalties against the 89 companies which had originally failed to adequately report certain information about the potential hazardous nature of their products. That sum represented substantially reduced penalties as a result of this program.

- Region 2 participated with the NY Department of Health in the making of two videos--one geared toward the regulated community and the other targeted to the public at large--on lead requirements, hazards, and safety. The region also participated in three professional conventions/exhibitions directly/individually contacting over 14,000 members of the lead-based paint regulated community (realtors, apartment owners, property management firms) and delivered over 20 individual presentations (to 18 realtor groups, two county bar associations, and the South Jersey State Lead Consortium). Region 2 developed and implemented the nation's first pilot of the §1018 disclosure inspections, conducting 33 site visits, resulting in 23 "inspections" (compliance assistance visits).

- Negotiations with respondents and Region 2 in the PCB program produced SEPs that resulted (or will result) in the following environmental gains: all authorized PCB

transformers at two facilities were removed and disposed of, eliminating any future risk of fire, spills, or exposure; and an oil-fired combustion burner was replaced with a gas/oil-fired combustion burner, which is more efficient and will result in reduced sulfur dioxide and particulate emissions.

- Exposure to lead and petroleum aromatic hydrocarbons, such as those found in shot and clay targets, respectively, is associated with a wide variety of adverse health and environmental effects. It is estimated that there are up to 1,000 ranges with 10 million pounds of lead in Region 2. To promote regular removal of lead shot and clay targets, which would avoid future contamination of the site and significantly reduce potential liability and costs, a draft manual for design and operation of ranges to collect shot for recycling has been developed by Region 2. Much outreach to gather information for the manual was conducted and a number of stakeholders have been a part of the region's manual development process. The manual is intended to provide BMPs for the entire country.

- Region 3 participated in a workshop entitled "Living with TSCA" sponsored by EPA, the Chemical Manufacturers Association, and other chemical industry associations. The workshop featured more than 500 industry representatives.

- Region 4 initiated a community education and outreach pilot project during FY97 to address and help mitigate children's exposures to pesticides, asbestos, lead, and PCBs.

- Region 5 conducted 22 PCB inspections at federal facilities, public utilities, commercial buildings, and other industrial facilities. As a result, the region issued 17 civil complaints under the PCB rules and closed 29 cases during the same period. Four of the closed cases included SEPs concerning the disposal of PCBs or PCB-contaminated equipment, or an accelerated schedule for replacement of PCB transformers.

- Region 6 has reached a broad cross section of the real estate community through three compliance seminars, 25 on-site compliance assistance visits, and mail-outs to 600 entities.

- Region 7 reviewed records and documents to develop a list of "new" public and private schools that may not have been in operation at the time the Asbestos Hazard Emergency Response Act took effect. As a result, 197 letters were sent to schools that did not submit asbestos management plans in 1987-88 to notify them of their responsibilities.

- Region 9 conducted a pilot project of compliance visits under §1018 disclosure regulations. The region visited 19 real estate offices, property management firms, and independent apartment building owners in three counties. The counties were selected based on income, older housing stock, and minority populations.

3.4.4 RCRA

RCRA addresses the management of solid and hazardous waste, as well as Underground Storage Tanks (UST), that contain hazardous substances or petroleum. RCRA Subtitle C regulations provide "cradle-to-grave" regulation and control of hazardous wastes by imposing various waste management requirements on generators, transporters, and facilities that treat, recycle, store, or dispose of hazardous wastes. Under Subtitle D of RCRA, EPA has developed criteria applicable to the management of solid waste, which is primarily regulated by state and local governments. The central Subtitle D regulation addresses municipal solid waste permitting programs. Subtitle I of RCRA establishes rules for USTs containing petroleum or hazardous substances. These rules focus on preventing, detecting, and correcting releases of regulated substances. In FY97, EPA placed priority on the Universal Treatment Standards, Subpart CC, release detection requirements for USTs and hazardous waste generators. The following illustrate some of the RCRA-related accomplishments in FY97.

The regional RCRA programs:

- Conducted 3,586 inspections
- Initiated, referred, or concluded 644 enforcement actions
- Conducted more than 8,969 compliance assistance activities, reaching more than 35,088 entities.

On October 20, 1997, EPA issued the *Guidance on the Use of Section 7003 of RCRA*. This authority provides EPA with broad and effective enforcement tools that can be used to abate conditions that may present an imminent and substantial endangerment to human health or the environment. The 1997 RCRA §7003 guidance addresses a variety of subjects as they relate to the use of this authority including: case screening factors, the relationship of RCRA §7003 to other requirements and authorities, legal requirements for initiating action, actions and restraints that can be required, relief available, and other requirements and considerations. In addition, the guidance discusses enforcement of unilateral administrative orders and administrative orders on consent.

Subpart CC Compliance Assistance Project - In FY97, EPA, in partnership with the Chemical Manufacturers Association, developed a user friendly compliance assistance tool for complying with the RCRA Subpart CC Rule for 40 CFR Parts 264 and 265 "Organic Air Emission Standards for Hazardous Waste Tanks, Surface Impoundments, and Containers at Hazardous Waste Treatment Storage and Disposal Facilities and Hazardous Waste Generators." This compliance tool is intended for personnel with environmental compliance responsibilities at both the plant and corporate level, as well as engineers and production personnel who are responsible for design and operation of hazardous waste units. Several workshops were conducted using this tool.

In addition to these national initiatives, the EPA regions conducted the following RCRA-related activities in FY97.

- Region 1's RCRA compliance unit conducted 78 multimedia inspections in FY97. Hospitals, universities, and state departments of transportation were found to be in significant violation of RCRA. In contrast, two municipal airports were in violation. However, the municipal departments of public works, transportation/highway departments, and fire departments inspected were generally found to be in minor violation or not in violation. The inspections identified either minor violations or none at all at printers, wood coaters, and adhesive manufacturers. As a result, the region referred four RCRA actions to DOJ in FY97.

- Region 2 developed and used compliance assistance tools including a series of six air emissions seminars (with training manuals) as part of its outreach program to inform the regulated community of the requirements imposed by the Emissions Rule. In addition, the region developed a specialized air emissions inspection checklist and 30 specialized air emissions inspections were performed at TSDFs and generators.

- The RCRA program in Region 2 inspected more than 370 generators. In addition, the states inspected more than 1,600 facilities that generate hazardous waste. These inspections resulted in the issuance of 19 EPA Administrative Complaints and almost 200 NOVs. Penalties of $1,665,610 were proposed in the 19 EPA complaints and $972,925 was assessed (collected) in 19 ACOs. In addition, the region estimates that these actions resulted or will result in more than $11 million of compliance improvements and in the reduction or elimination of more than 60,000 pounds per year of hazardous waste releases to the environment.

- Region 3 developed a Subpart CC Rule outreach document and mailed it to all treatment, storage, and disposal facilities (TSDFs) and large quantity generators in the region.

- Training was conducted in March 1997 in Region 3 on a review of the Subtitle I and 40 CFR 280 of RCRA. The training covered the requirements for UST systems, release detection requirements, corrosion protection requirements, closure requirements, corrective action requirements, and financial responsibility requirements. The final stage of the phase-in of requirements occurred on December 22, 1997, and Region 3 provided this training to assist inspectors and the regulated community in meeting the new challenges of UST program compliance.

- In Region 4, the Mississippi UST program has adopted a tank inspection target protocol based on a tank's proximity to vulnerable aquifer systems or wellhead protection areas. During FY97, Mississippi conducted 914 compliance inspections using the protocol as a screening tool.

- In May 1997, Region 5's UST section conducted 219 facility compliance visits. Petroleum marketers accounted for 49 percent of the facilities; the remaining 51 percent were non-marketers. The intent of the visits was to determine facility compliance with release detection. Of the 190 facilities operating UST systems, 42 percent were in compliance with release detection requirements. Over a third of the marketers (35.6 percent) and half of the non-marketers were not in compliance with release detection requirements.

  Of the 190 facilities operating UST systems, 36 percent already met the 1998 requirements. Forty-six percent of the facilities indicated they plan to upgrade or replace their UST systems before the 1998 deadline. Eighteen percent of the facilities planned to close before the 1998 deadline.

- In Region 6, §3007 Request for Information letters were sent to 48 targeted facilities. Thirteen facilities were out of compliance. Warning letters were issued to four facilities and nine APOs and CACOs were issued simultaneously to facilities requiring extensive violation corrections. Total penalties assessed were $250,000. One of the enforcement actions resulted in the first international SEP in the country. The SEP removed 200,000 pounds of waste from the environment and completely eliminated wastewater generation at a Mexican manufacturing facility.

  Region 6 selected the marine industry located along the lower Mississippi as a regional specific priority. The area of consideration was chosen for community-based protection, ecosystem protection, EJ, and large quantity generators. The facilities had not been inspected by either the state or EPA during the last four years. A total of 46 facilities was inspected. Fifty percent of the facilities inspected were in noncompliance with RCRA. As result of the inspections, many of the facilities have changed their operating procedures to eliminate the generation of hazardous waste.

  Region 6 took a pro-active approach in encouraging early compliance with the 1998 UST compliance deadline. The region developed an outreach/enforcement strategy where the region and its states had a coordinated and focused effort to persuade the regulated community to upgrade to the 1998 standards. The region also provided training on the technical/regulatory UST issues and conducted 90 inspections. Of the 90 inspections conducted, 14 facilities were in compliance.

- Region 7 developed a model for a condensed RCRA inspection that allows the inspector to focus on potentially high risk environmental areas. Region 7 RCRA inspectors use a multi-page checklist to identify those facilities with potentially serious violations, which then receive a full compliance monitoring inspection. The screening inspections were focused in the State of Nebraska at large quantity generators and small quantity generators that had never been inspected. This new inspection tool enabled four Region 7 inspectors to conduct 133 screening inspections. Of these 133, approximately 75 percent of the inspections were found to be waste determination violations. The inspectors and

RCRA staff worked with these facilities to come into compliance by providing a copy of the *RCRA Guidance Handbook for Small Businesses* and providing contacts to answer questions on hazardous waste.

- Region 8 and all of its states participated in a national initiative for leak detection. The purpose was to create public awareness of UST leak detection requirements and to improve compliance of UST facilities. The region and states collectively performed 250 inspections during the month of May. Region 8 had referred 4 enforcement actions to DOJ as a result of the initiative.

- Region 9, with assistance of California and Hawaii, developed and delivered compliance seminars to small quantity generators and local regulatory agencies which have historically had high levels of noncompliance. This outreach was targeted toward remote areas which generally do not have the opportunity for such training.

3.4.5 CERCLA

In FY97, EPA significantly improved its Superfund program through continued administrative reforms. The following are some accomplishments over the past year in administrative reform:

- ***General Policy on Superfund Ability to Pay Determinations*** - This policy explains what is required for an acceptable ability to pay (ATP) settlement in Superfund cases. The main text of the policy document addresses general issues that apply to the ATP process and ATP settlements. The policy document also contains two appendices that address issues specific to making ATP determinations for individuals and businesses.

- ***Guidance on EPA Participation in Bankruptcy Cases*** - The purpose of this guidance is to identify the factors to be considered by EPA in determining whether to participate in a bankruptcy case, including whether to pursue collection of costs or penalties against debtors who have liability under CERCLA or other environmental statutes.

- ***Interim Policy on Settlement of CERCLA §106(b)(1) Penalty Claims and §107(c)(3) Punitive Damages Claims for Noncompliance with AOs*** - This policy is intended to make calculation of civil penalties and punitive damages under CERCLA for purposes of settlement a fair and effective process for deterring noncompliance with EPA's administrative orders. The policy contains an innovative approach toward penalty calculation that takes into account factors particularly relevant to CERCLA cases by incorporating both harm and equitable adjustment factors into a single "harm-recalcitrance" matrix.

- ***Addendum to the "Interim CERCLA Settlement Policy" Issued on December 5, 1984*** - This memorandum is an addendum to the "Interim CERCLA Settlement Policy," which was issued by EPA and DOJ on December 5, 1984 (50 FR 5024, February 5, 1985). That policy sets forth the general principles governing settlements with potentially responsible

parties under CERCLA. On June 3, 1996, EPA issued an "Interim Guidance on Orphan Share Compensation for Settlors of Remedial Design/Remedial Action (RD/RA) and Non-Time-Critical Removals." Because that guidance document does not apply to CERCLA cost recovery settlements in which the parties are not agreeing to perform RD/RA work or a non-time critical removal, EPA and DOJ are issuing the addendum to provide the regions with direction for addressing potential compromises of CERCLA cost recovery claims due to the existence of a significant orphan share.

- ***Policy on Interpreting CERCLA Provisions Addressing Lenders and Involuntary Acquisitions by Government Entities*** - This policy clarifies the circumstances under which EPA intends to apply as guidance the provisions of the CERCLA Lender Liability Rule and its preamble in interpreting CERCLA's secured creditor exemption as amended by the Asset Conservation, Lender Liability, and Deposit Insurance Protection Act of 1996. This document also reminds its readers of the effects of the portion of the CERCLA Lender Liability Rule and the sections of the preamble that address involuntary acquisitions by government entities.

- ***Final Guidance on the Issuance of AOs Under §§311 (c) and (e) of the CWA*** - This guidance describes how to use the authorities under §§311 (c) and (e) of the CWA to issue administrative orders for the cleanup and prevention of discharges and threatened discharges of oil and hazardous substances into navigable waters, adjoining shorelines, and certain other areas.

- ***Policy on the Issuance of Comfort/Status Letters*** - As part of the Agency's Brownfields Action Agenda, OECA has developed four sample "comfort" letters and a general policy regarding their use. The policy describes the most common situations about which parties inquire and the type of information or comfort EPA may provide to parties to assist them in assessing the probability of incurring liability under CERCLA.

In addition to the administrative reform activities, the headquarters and regional Superfund programs completed the following activities in FY97:

- ***ADR Training*** - A training in the effective use of mediation and other ADR techniques to assist EPA enforcement actions was provided to all regional offices during FY97.

- ***Outreach Efforts*** - Members of the ADR Specialists Network made presentations and provided consultation services on effective ADR use for numerous professional and PRP organizations, including: the American Bar Association, the Center for Public Resources, the Information Network for Superfund Settlements, the Society of Professionals in Dispute Resolution, and several federal and state agencies.

- ***Contribution to Superfund Administrative Reform Initiatives*** - During FY97, members of the ADR Specialists Network assisted Agency efforts to implement several of the

Superfund administrative reform initiatives. This resulted in the establishment of an ADR implementation plan in each regional office.

- ***Other Training*** - During FY97, the policy integration team was involved with more than 12 course deliveries, training more than 530 federal and state employees in the CERCLA and RCRA corrective action enforcement programs.

The Agency also continued to focus efforts toward brownfields. The following are examples of brownfields initiatives at the regional level:

- In FY97, Region 6's brownfields team successfully completed two targeted site assessments for the cities of Duncanville, TX, and Malvern, AR. The city of Tulsa, OK, was awarded a $200,000 regional site assessment pilot grant. Also, a brownfields site assessment demonstration was conducted on three properties in the City of New Orleans, to show that brownfields site assessments with a focus on end use are faster, cheaper, and more efficient.

  The region's Brownfields Cleanup Revolving Loan Fund was awarded to 23 of the original 30 site assessment pilots. In Region 6, the cities of Dallas and New Orleans each received a $300,000 grant to establish the revolving loan fund that can be used for cleanup of brownfields property. The brownfields program was also able to provide all of the states in Region 6 with funds for their respective voluntary cleanup programs.

- EPA awarded Wellston, MO, a $200,000 grant under EPA's Brownfields National Pilot program. The proposed pilot project area in Region 7 includes light manufacturing/warehouse distribution facilities and single-family housing near the Wellston Metro Link Station. Wellston will conduct environmental assessments, develop plans for remediation, and prepare a comprehensive redevelopment plan for a light manufacturing technology park and residential areas.

- In Region 9, Oakland was awarded a $100,000 Regional Pilot grant. The funding will be used to conduct Phase II assessments at two sites: one is within Oakland's downtown redevelopment area and the other is in East Oakland near the Coliseum. An additional $100,000 was added to the pilot grant that will be used to encourage the redevelopment of the Fruitvale area's Bay Area Rapid Transit (BART) Transit Village project.

- In August 1997, Region 9 piloted a technical training and jobs placement program for the community surrounding the East Palo Alto brownfields site. Sixteen students received seven weeks of extensive training from DePaul University in hazardous waste handling, lead and asbestos abatement, and UST cleanup and removal. Funding for this program was provided by EPA to DePaul through an existing grant the university has with the National Institute for Environmental Health Sciences. Classroom training was followed by 90 days of paid on-the-job training with several environmental cleanup firms in the area.

3.5 Self Disclosure

Voluntary auditing programs play an important role in helping companies meet their obligations to comply with environmental law. EPA's Self-Policing Self-Disclosure Policy (Audit Policy), effective in January of 1996, encourages self-policing by reducing penalties for any violations that are discovered, disclosed, and corrected through voluntary audits or compliance management programs. Further, EPA will not recommend criminal prosecution of regulated entities in these circumstances, although individuals remain liable for their own criminal conduct. The Audit Policy includes safeguards to protect the public and the environment, excluding violations that may result in serious harm or risk, reflect repeated noncompliance or criminal conduct, or allow a company to realize a significant economic gain from its noncompliance.

More than 100 companies have self-disclosed violations under the Audit Policy, proving that environmental auditing can be encouraged without blanket amnesties or audit privileges that would excuse serious misconduct, frustrate enforcement, encourage secrecy, boost litigation, and/or lead to public distrust.

In the biggest settlement ever reached under the Audit Policy, the Agency and GTE Corporation came to an agreement resolving water and right-to-know 600 violations at 314 GTE facilities in 21 states. The GTE settlement demonstrates the policy's broad scope in promoting compliance at facilities nationwide and provides a good model for national companies that want to come forward and resolve multiple federal violations. The Audit Policy's success, however, has not been limited to large companies. Of the 250 companies that have disclosed environmental violations at more than 790 facilities, many are small businesses as well.

The following are examples of self-disclosures within the EPA regions:

- ***Region 1*** - In FY97, one company with less than 100 employees submitted a voluntary self-disclosure of violations of EPCRA §313 (failure to submit a total of eight Form Rs over three years). The violations were discovered during a company environmental self-audit, and the company disclosed the violations to EPA in writing within four days of discovery of the violations. There was no economic benefit derived from the violations and the facility submitted the forms within 60 days of discovery of the violations.

- ***Region 2*** - Three enforcement actions resulted from voluntarily disclosed violations of Core TSCA requirements. Since FY91, Core TSCA has taken and settled 23 voluntarily disclosed cases. Most, if not all, of the cases were the result of self-audits done by the company. The regulated community is aware of the provisions in the Core TSCA Enforcement Response Policies, which have been in effect since 1989.

- ***Region 7*** - During FY97, Region 7 concluded seven cases where entities voluntarily came forward and self-disclosed violations of environmental regulations, in accordance with the provisions of the Audit Policy. Violations were self-disclosed under EPCRA, TSCA, and CAA. In each of the seven cases, the respondents have corrected the

violations and have entered into a consent agreement with the region certifying their satisfaction of the conditions of the Self-Policing Policy. In return, six of the entities received 100 percent mitigation of the gravity-based penalties that normally would have been proposed for such violations; the seventh entity received a 75 percent reduction of the gravity-based penalty. None of the seven entities realized any economic benefit as a result of their violations. Penalty mitigation in the seven cases ranged from $15,000 to $139,042.

- ***Region 8*** - In FY97, Region 8 continued to actively support and defend the Agency's policy to encourage self-disclosure of violations discovered as a result of an environmental audit. Discussions are continuing with state officials, legislators, and interest groups regarding the consideration of environmental audit legislation in the State of Montana, and several speeches have been given by regional staff regarding the Audit Policy.

4. PERFORMANCE PARTNERSHIP AGREEMENTS/GRANTS (PPAs/PPGs)

Neither the federal government nor the states have sufficient resources alone to address every environmental compliance problem. The Environmental Protection Agency (EPA) and the states each have capabilities and responsibilities unique or appropriate for their respective agencies. Therefore, integration of federal and state enforcement and compliance assurance efforts must be achieved to provide the most effective national environmental protection program. This year was the first full year of implementation of the National Environmental Performance Partnership System (NEPPS) following a pilot year in 1996. The Office of Enforcement and Compliance Assurance (OECA) had previously worked with the regions and states to develop Core Program Performance Measures to evaluate the performance of Performance Partnership Agreements (PPAs). The enforcement and compliance staff in regional offices were involved in negotiating the agreement to ensure adequate enforcement and compliance provisions.

In FY97, the first full year of NEPPS implementation, the enforcement and compliance programs in the region offices participated in the performance partnership negotiations to ensure the inclusion of adequate enforcement and compliance programs. In FY97, 34 PPAs and 22 Performance Partnership Grants (PPGs) were negotiated with state environmental agencies that cover a variety of environmental programs. The regions also entered into four PPGs with state departments of agriculture to cover FIFRA (pesticides, enforcement, and worker protection) grants. OECA has worked with the regional offices to review draft PPAs and to provide guidance in the form of the Memoranda of Agreement (MOA) Guidance. OECA has also worked with its state partners to develop enforcement and compliance Accountability Measures to be used to evaluate the performance of PPAs and PPGs. The Accountability Measures are designed to included both outcome and output measures.

Several cases developed by the Office of Regulatory Enforcement (ORE) demonstrate the benefits of working with state partners in assuring compliance. At the Diablo Canyon Nuclear Power Plant, EPA and California joined efforts in developing and litigating an important water enforcement action involving Pacific Gas & Electric's (PG&E's) failure to submit accurate and complete information concerning the adverse impacts of its operations on the adjoining coastal ecosystem. Recognizing the environmentally sensitive nature of this area, the state and federal governments teamed up and obtained more than $7 million in cash penalties and more than $6 million in injunctive measures to mitigate damage that likely occurred from withdrawing small aquatic organisms and fish through the plant's cooling water intake.

In FY97, several regions began the process of negotiating PPAs with their states. In Region 1, for example, principal negotiation terms were developed for all six New England states--Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The scope of the PPAs included the Clean Air Act (CAA), Clean Water Act (CWA), Resource Conservation and Recovery Act (RCRA), Toxic Substances Control Act (TSCA), underground storage tank (UST), and other programs according to individual statutes.

The status of PPAs and PPGs in other EPA regions varies. The following attempts to highlight the status of each region in the process:

- Region 2 has negotiated a PPA and PPG with New York for the National Pollutant Discharge Elimination System (NPDES) and drinking water programs. The region also had PPA and PPG with New York for underground injection control (UIC), NPDES and drinking water programs. The region's PPG with the Virgin Islands covers all eligible grant dollars.

- Region 3 entered into six PPGs in FY97, although only Delaware had an associated PPA. Those PPGs combined pesticide enforcement funds with pesticide certification and training funds.

- Region 4 had PPAs in FY97 with Florida, Georgia, Mississippi, North Carolina, and Tennessee. It had PPGs with Georgia and Mississippi.

- Region 5 had agreements with Illinois, Minnesota, Indiana, and Ohio. The Environmental Performance Partnership Agreement (EnPPA) served as a workplan for Illinois, Indiana, and Minnesota. Indiana and Illinois had PPGs as part of their EnPPAs.

- Region 7 had PPAs and PPGs with the Departments of Agriculture in Iowa, Kansas, and Nebraska. These grants were awarded under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and covered the Worker Protection Standard (WPS), pesticide certification, pesticide enforcement, and the endangered species program. The state of Nebraska had a PPG, which included administrative functions only and not programmatic activities with the air, water, and RCRA programs. Missouri is the only other state that had a PPG for FY97. It included the air, water, and RCRA programs.

- Each of the six states in Region 8 received a PPG. However, not every state developed a PPA.

- In Region 9, the Arizona Department of Environmental Quality (ADEQ) is the recipient of a PPG combining four water grants. The water divisions of Region 9 and ADEQ have a signed agreement that lays out how the agencies will continue to improve their joint strategic plans over the next five years. The PPG itself is an experiment to see how effective a tool it is for streamlining paperwork.

  Also in Region 9, the Hawaii Department of Health (HI DOH) is the recipient of a multimedia PPG combining eight grants. The grant's primary purpose is to staff HI DOH's development of a state strategic plan. The grant also funds HI DOH's role in staffing a public advisory group's review for public acceptance of the plan.

- The FY98 PPAs represent Region 10's first year for addressing compliance/enforcement matters in a substantive manner. During FY98, each of the media program compliance assurance agreements is being reviewed and revised as necessary.

4.1 Measures

During FY97, OECA and the regions continued to refine and add measurement of enforcement and compliance assurance to systematically capture information, to bring measurements forward in accordance with the Government Performance and Results Act (GPRA), and to progress in results measurement. There are challenges in applying these themes across programs and organizations, including states, without making measurement activities a major resource use. Despite this, OECA and the regions continue to make measures of success a key portion of initiatives and regular business.

In FY97, OECA led a nationwide process which engaged stakeholders in industry, environmental, academic, and community groups, government organizations, and the press to develop a proposed framework for a National Performance Measures Strategy. The report establishing the measures framework was issued on December 22, 1997, and implementation will begin in FY98.

Reporting of accomplishments for FY97, included reporting on the results and impacts of concluded federal enforcement actions. These data were obtained via the Case Conclusion Data Sheets. EPA coordinated all aspects of the case conclusion data reporting process in advance of being able to use the OECA Docket for reporting.

Appendix A

Current and Historical Enforcement Data

Table A-1. National Totals - FY 1997 Enforcement Activity

EPA Regional Inspections

	FY 95	FY 96	FY 97
CAA Stationary	1,081	2,064	2,844
CAA Mob. Source	NA	107	104
Asbestos D & R	961	635	653
NPDES Minors	558	499	784
NPDES Majors	1,250	1,046	918
CWA 311	NA	2,267	1,666
CWA 404	NA	342	529
EPCRA 313	644	571	473
EPCRA non-313	NA	689	438
FIFRA	587	116	207
RCRA	2,112	1,829	2,165
UST	NA	579	1,421
SDWA	6,095	6,569	5,490
TSCA	1,241	898	1,014
Total	14,529	18,211	18,706

SOURCE: program databases/IDEA, manual reports

There were also 127 GLP inspections by HQ (OC/AED/LDIB)

EPA Adminstrative Compliance Orders Issued

	FY 95	FY 96	FY 97
CAA	130	154	209
CERCLA	257	197	279
CWA	865	504	815
EPCRA	NA	2	7
FIFRA	NA	10	7
RCRA	1	35	44
SDWA	611	284	453
TSCA	0	0	4
Total	1,864	1,186	1,818

In addition, there were 56 HQ CAA Mobile Source NOVs w/ penalities

EPA Administrative Penalty Order Complaints

	FY 95	FY 96	FY 97
CAA	102	88	126
CERCLA	23	37	26
CWA	212	153	329
EPCRA	244	196	293
FIFRA	160	73	174
RCRA	91	88	139
SDWA	86	57	45
TSCA	187	178	181
Total	1,105	870	1,313

SOURCE: Docket; all CERCLA are Section 103

EPA Adm. Penalty Settlements (Conclusions)

	FY 95	FY 96	FY 97
CAA	127	103	139
CERCLA	28	39	33
CWA	210	169	205
EPCRA	201	184	366
FIFRA	105	107	161
RCRA	104	119	154
SDWA	55	76	44
TSCA	239	207	248
Total	1,114	1,004	1,350

SOURCE: Docket

FY 95 total includes 45 MM; all but one CERCLA are Section 103

EPA Field Citations

	FY 95	FY 96	FY 97
UST	NA	115	240

SOURCE: Docket

New EPA Civil Referrals to DOJ

	FY 95	FY 96	FY 97
CAA	37	70	89
CERCLA	102	127	154
CWA	49	48	98
EPCRA	3	9	11
FIFRA	1	3	4
RCRA	14	19	49
SDWA	5	17	13
TSCA	3	2	8
Total	214	295	426

SOURCE: Docket

EPA Civil Judicial Settlements

	FY 95	FY 96	FY 97
CAA	43	62	45
CERCLA	87	121	159
CWA	24	60	35
EPCRA	1	10	3
FIFRA	1	5	2
RCRA	6	22	18
SDWA	4	7	9
TSCA	4	5	3
Total*	179	292	274

SOURCE: Docket

FY 95 total includes 9 MM

Table A-2. Dollar Value of FY 1997 EPA Enforcement Actions (by Statute)

Statute	Type of Enforcement Action				
	Criminal Penalties Assessed	Civil Judicial Penalties Assessed	Administrative Penalties Assessed	Dollar Value of Injunctive Relief	Dollar Value of SEPs
CAA	$54,077,526	$13,792,299	$3,093,055	$38,245,378	$21,966,583
CERCLA	$4,623,918	$314,966	$42,239	$778,912,089	$0
CWA	$94,194,123	$22,142,408	$4,256,948	$949,026,967	$38,798,563
EPCRA	$0	$0	$5,183,747	$2,435,393	$7,646,285
FIFRA	$102,174	$66	$1,453,885	$10,346,787	$816,265
RCRA	$11,683,721	$9,698,368	$8,246,082	$50,611,488	$13,001,323
SDWA	$40,000	$18,500	$369,552	$38,335,856	$159,500
TSCA	$2,003,824	$0	$26,501,272	$5,405,879	$3,004,053
Title 18/ MPRSA	$2,557,610	$0	$31,714	$20,004,000	$50,350
Total	**$169,282,896**	**$45,966,607**	**$49,178,494**	**$1,893,323,837**	**$85,442,922**

Table A-3. EPA Administrative Actions Initiated (by Statute) FY 1974 through FY 1997

Statute	Fiscal Year											
	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
CAA	0	0	210	297	129	404	86	112	21	41	141	122
CWA/ SDWA	0	738	915	1,128	730	506	569	562	329	781	1,644	1,031
RCRA	0	0	0	0	0	0	0	159	237	436	554	327
CERCLA	0	0	0	0	0	0	0	0	0	0	137	160
FIFRA	1,387	1,614	2,488	1,219	762	253	176	154	176	296	272	236
TSCA	0	0	0	0	1	22	70	120	101	294	376	733
Totals	**1,387**	**2,352**	**3,613**	**2,644**	**1,622**	**1,185**	**901**	**1,107**	**864**	**1,848**	**3,124**	**2,609**
Statute	**Fiscal Year**											
	1986	**1987**	**1988**	**1989**	**1990**	**1991**	**1992**	**1993**	**1994**	**1995**	**1996**	**1997**
CAA	143	191	224	336	249	214	354	279	435	232	242	391
CWA/ SDWA	990	1,214	1,345	2,146	1,780	2,177	1,977	2,216	1,841	1,774	998	1,642
RCRA	235	243	309	453	366	364	291	282	115	92	238	423
CERCLA	139	135	224	220	270	269	245	260	264	280	234	305
FIFRA	338	360	376	443	402	300	311	233	249	160	83	181
TSCA	781	1,051	607	538	531	422	355	319	333	187	178	185
EPCRA	0	0	0	0	206	179	134	219	307	244	198	300
Totals	**2,626**	**3,194**	**3,085**	**4,136**	**3,804**	**3,925**	**3,667**	**3,808**	**3,544**	**2,969**	**2,171**	**3,427**

Table A-4. EPA Criminal Enforcement FY83 through FY97

Action	Fiscal Year														
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Referrals to DOJ	26	31	40	41	41	59	60	65	81	107	140	220	256	262	278
Defendants charged	34	36	40	98	66	97	95	100	104	150	161	250	245	221	322
Months sentenced	0	6	78	279	456	278	325	745	963	1,135	892	1,188	888	1,116	2,351

Table A-5. EPA Civil Referrals to the Department of Justice FY74 through FY96

Statute	Fiscal Year											
	1974	**1975**	**1976**	**1977**	**1978**	**1979**	**1980**	**1981**	**1982**	**1983**	**1984**	**1985**
Air	3	5	15	50	123	149	100	66	36	69	82	116
Water	0	20	67	93	137	81	56	37	45	56	95	93
CERCLA	0	0	0	0	2	5	10	2	20	28	41	35
RCRA	0	0	0	0	0	4	43	12	9	5	19	13
Toxics/ Pesticides	0	0	0	0	0	3	1	1	2	7	14	19
Totals	**3**	**25**	**82**	**143**	**262**	**242**	**210**	**118**	**112**	**165**	**251**	**276**
Statute	**Fiscal Year**											
	1986	**1987**	**1988**	**1989**	**1990**	**1991**	**1992**	**1993**	**1994**	**1995**	**1996**	**1997**
Air	115	122	86	92	102	86	92	80	141	37	70	89
Water	119	92	123	94	87	94	77	84	97	54	65	111
CERCLA	41	54	114	153	157	164	137	129	144	102	127	154
RCRA	43	23	29	16	18	34	40	30	35	14	19	49
Toxics/ Pesticides	24	13	20	9	11	15	15	15	13	7	14	23
Totals	**342**	**304**	**372**	**364**	**375**	**393**	**361**	**338**	**430**	**214**	**295**	**426**

Table A-6. State Environmental Agencies Administrative Actions and Judicial Referrals FY87 through FY97

Administrative Actions											
Program Area	**Fiscal Year**										
	1987	**1988**	**1989**	**1990**	**1991**	**1992**	**1993**	**1994**	**1995**	**1996**	**1997**
FIFRA	5,922	5,078	6,698	4,145	3,245	3,095	4,172	3,528	2,486	2,333	1,101
Water	1,663	2,887	3,100	3,298	3,180	2,748	3,960	4,063	4,231	4,598	7,051
Air	907	655	1,139	1,312	1,687	1,411	2,005	2,050	1,833	1,534	1,919
RCRA	613	743	1,189	1,350	1,495	1,389	1,744	1,609	1,235	841	444
Totals	**9,105**	**9,363**	**12,126**	**10,105**	**9,607**	**8,643**	**11,881**	**11,250**	**9,785**	**9,306**	**10,515**
Judicial Referrals											
Program Area	**Fiscal Year**										
	1987	**1988**	**1989**	**1990**	**1991**	**1992**	**1993**	**1994**	**1995**	**1996**	**1997**
Water	286	687	489	429	297	204	383	162	169	169	151
Air	351	171	96	156	190	258	174	325	124	198	164
RCRA	86	46	129	64	57	112	133	91	104	66	64
Totals	**723**	**904**	**714**	**649**	**544**	**574**	**690**	**578**	**397**	**433**	**379**

Appendix B

Significant Administrative, Judicial, and Criminal Cases

TABLE OF CONTENTS

CERCLA

Bennington Landfill Superfund Site (Vermont): The U.S. and the State of Vermont reached a settlement with 19 parties to perform and fund a non-time critical removal action (NTCRA) for the Bennington Landfill Superfund Site in Bennington, VT, which will cost approximately $10.5 million. This settlement was entered by the court on August 8, 1997. The NTCRA consists of capping the site and containing site wastes. As part of settling the natural resource damages claim, the settlement also requires the settlors to implement a wetlands restoration and education project which was approved by the U.S. Department of the Interior (DOI) and the State of Vermont.

The settlement consisted of two documents: an administrative order and a consent decree. The settlement incorporated three of the Environmental Protection Agency's (EPA's) Superfund administrative reforms: compensation of orphan shares, protection of small parties, and adoption of Potentially Responsible Party (PRP) allocations. Because the generator of the largest volume of waste was bankrupt, EPA and the state are performing long term monitoring at the site valued at approximately the allocated share of the bankrupt party. Fourteen of the 19 settlers are resolving their liability as *de minimis* parties, which provides those small parties with final settlement of their liabilities. The resolution of the natural resources damage claims and the related release from liability by the State of Vermont are the first release of its kind ever provided by Vermont in a Superfund settlement.

Cannons Bridgewater Superfund Site (Massachusetts): On January 9, 1997, EPA signed a prospective purchaser agreement with Osterman Propane, Inc., and the Massachusetts Bay Transportation Authority (MBTA) concerning the Cannons Engineering Corporation Bridgewater Superfund Site in Bridgewater, MA. The agreement will facilitate the reuse of a portion of the site by Osterman as a wholesale propane gas facility. This agreement also promotes the MBTA's plans to extend a commuter rail to the Town of Bridgewater as part of the Old Colony Railroad Project. In order to facilitate a portion of the project, the MBTA took title to Osterman's former property located within the town and proposes to relocate Osterman to the property. The town, which is the current owner of the property, will transfer title of the property to Osterman in order to keep Osterman's business located within the town. Pursuant to a consent decree, settling PRPs have completed the soil cleanup at the site and currently are performing the remaining cleanup work, which consists of monitoring groundwater until cleanup levels are achieved through natural attenuation.

Cohen Superfund Site (Massachusetts): On September 9, 1997, EPA signed a prospective purchaser agreement with the City of Taunton, MA, regarding the Cohen Property Superfund Site. The Cohen site is a removal site currently undergoing a $6-7 million removal action. The city intends to use the site as "lay down" equipment and salt/sand storage for its Department of Public Works (DPW) and Building Department, and as a rail transfer point for shipments of material for the Central Artery reconstruction. The city agreed to: allow Region 1 to use the Taunton Landfill for disposal of contaminated soils; perform operation & maintenance and environmental monitoring on the site; purchase adjoining contaminated parcels to consolidate ownership; pave a portion of the site; and provide access and abide by institutional controls. The site is located in an economic target area designated by the Commonwealth of Massachusetts, and reuse of the site is part of the city's overall redevelopment strategy for the area.

Industri-Plex Superfund Site (Massachusetts): On December 31, 1996, EPA signed a prospective purchaser agreement with three Massachusetts transportation agencies concerning a portion of the Industri-Plex Superfund Site in Woburn, MA. The Industri-Plex site currently is nearing completion of a $70 million remedy performed and funded by the PRPs. The three transportation agencies intend to use the property for a transportation center, consisting of a commuter rail station, a "park and ride" facility to downtown Boston and Logan Airport, and a new interchange for Route 93, which is adjacent to the site. The three agencies agreed to construct a cover on the property that exceeds the requirements of the remedy, to provide access, and to

abide by institutional controls being developed for the site.

Landfill and Resource Recovery Superfund Site (Rhode Island): A settlement was reached in February 1997 for the Landfill and Resource Recovery (L&RR) Superfund Site in North Smithfield, RI, which includes one of the first Supplemental Environmental Projects (SEP) in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) program. This settlement resolved the U.S.'s claims for past and future costs, natural resource damages, and penalties for alleged violations of a unilateral administrative order (UAO). The settlement also requires the settling parties to complete the cleanup of the site. The L&RR site was a former landfill where EPA estimated that more than two million gallons of waste, including hazardous substances, were accepted for disposal.

Under the terms of this settlement, the settling parties will pay a total of $2.06 million. Of this amount, $525,000 will be placed in escrow by the settling parties and will be used to fund a SEP for the acquisition of wetlands and/or conservation easements in the Blackstone River Valley National Heritage Corridor. The Corridor, which includes about 380,000 acres, is a string of parks, museums, historic buildings, and waterways. Its expansion and preservation is one of the State of Rhode Island's highest environmental priorities. The DOI will receive $200,000 for damages to natural resources at the site and will use this money to restore wetlands acquired pursuant to the SEP.

Norwood Superfund Site (Massachusetts): On September 29, 1997, EPA signed a prospective purchaser agreement with an individual and his corporation concerning a portion of the Norwood PCB Superfund Site in Norwood, MA. The PRPs currently are performing the remedy for the site. The prospective owner has agreed to conduct a response action at the site by demolishing a groundwater treatment building at the end of its useful life, pay the U.S. $10,000, provide access, and abide by institutional controls. The property will be used as a wholesale automobile dealership.

Parker Landfill Superfund Site (Vermont): In July 1997, the U.S. concluded negotiations with 13 of the 14 PRPs at the Parker Landfill Superfund Site. The site, located in Lyndon, VT, was used for the disposal of both industrial waste and municipal solid waste. The environmental harm at this site has a disproportionate impact on a low-income population located in a relatively rural area. The "Northeast Kingdom" in Vermont, where the site is located, is economically depressed, and has lost several key industries in the recent past. The settling parties have agreed to fund and perform certain components of the remedial action, including construction of the landfill cap. The total value of the work to be performed is estimated at over $7.8 million (of which $1.13 million is being paid by *de minimis* parties). The settlement was negotiated over the course of two years and is a testament to several regional and national Superfund initiatives. Among other efforts, the case team: 1) used mediation early in the negotiations to help the PRPs unite; 2) identified the *de minimis* settlers early in the negotiations and obtained the agreement of all parties to reduce the small parties' transaction costs; 3) secured mixed funding authorization early in the process to avoid protracted litigation involving municipal third party defendants and *de minimis* parties; and 4) funded an orphan share as outlined in new EPA guidance.

Raymark Industries, Inc., Superfund Site (Connecticut): On January 7, 1997, the U.S. and the State of Connecticut filed suit against Raymark Industries, Inc., and related entities seeking recovery of past and future cleanup costs incurred by the U.S. in connection with the cleanup of the Raymark Industries, Inc., Superfund Site in Stratford, CT. Cleanup costs at the site are likely to reach $200 million. Raymark's attempt to sue the individual homeowners and the Town of Stratford has been thwarted effectively by the government through agreements with the homeowners, which give them complete protection against Raymark's actions. As part of this litigation, the government is seeking a holding that Raymark's attempted transfer of the site to a self-created trust was fraudulent. The suit also seeks to force the judicial sale of the Raymark property so that redevelopment efforts can be realized at the site.

CLEAN AIR ACT

Cod Oil Co., Inc., and East Coast Petroleum (Massachusetts): On June 30, 1997, Region 1 initiated administrative actions against two fuel distributors, Cod Oil Co., Inc., and East Coast Petroleum, for violations of the Clean Air Act (CAA) limits on the sulfur content of diesel fuel. These two

companies distributed noncomplying fuel to municipalities throughout Greater Boston and Cape Cod, resulting in misfueling of multiple trucks and buses. The proposed penalty of $46,500 against Cape Cod Oil included a penalty for violations of the Clean Water Act (CWA) requirements for Spill Prevention, Control, and Countermeasure (SPCC) Plans. The region sought a penalty of $57,750 against East Coast for CAA violations.

Regency Towers (Connecticut): Region 1 successfully implemented Alternative Dispute Resolution (ADR) techniques to achieve an asbestos cleanup by a condominium association, management company, and contractor at a high rise condominium complex located in Hartford, CT. The region had previously issued an administrative order against the parties to conduct a cleanup at the apartment complex. After the parties' inability to delegate cleanup responsibilities stalled the cleanup, Region 1 was able to intervene using ADR to accomplish the cleanup.

CLEAN WATER ACT

Borough of Naugatuck (Connecticut): On March 19, 1997, the region issued an administrative complaint under CWA to the Borough of Naugatuck, CT, for violations of the effluent limits contained in its National Pollutant Discharge Elimination System (NPDES) Permit. Naugatuck operates a publicly owned treatment plant which discharges into the Naugatuck River. The complaint sought a $70,000 penalty.

The Massachusetts Department of Corrections (Massachusetts): On May 28, 1997, the Commonwealth of Massachusetts Department of Corrections (DOC), agreed to pay an administrative penalty of $52,000 for violations of CWA at the correctional facility in Bridgewater, MA. DOC was cited for violations of the total residual chlorine limit in the facility's NPDES permit.

Robert Nicoloro (Maine): On March 18, 1997, the region executed a consent agreement and final order in settlement of the September 1996 administrative penalty complaint issued to Robert Nicoloro regarding violations of CWA §404. Nicoloro had filled 0.1 acres of wetlands in 1992. In 1996, he constructed a home and installed a septic system in the fill, causing potential water quality problems for the nearby Rachel Carson National Wildlife Refuge. Pursuant to the consent order, Nicoloro agreed to pay a $15,000 penalty. In February 1997, the region also issued an administrative order for injunctive relief to Nicoloro. In the administrative order, the region required Nicoloro to replace his septic system with a closed "tight tank" system through which septage is captured and pumped for discharge into a publicly owned treatment works (POTW), rather than into the wetlands.

Siegel's Broadway Truck Parts: On June 16, 1997, Siegel's Broadway Truck Parts, Inc., agreed to pay a $20,000 penalty to settle an administrative penalty order for failing to have a storm water NPDES permit or a SPCC plan under CWA. This action was part of the region's efforts to target the automotive salvage yard sector. Discharges from automotive salvage yards consist of toxic contaminants such as heavy metals and carcinogenic organic chemicals. This initiative also addressed environmental justice concerns since many of these facilities are located in low-income areas.

EPCRA

Minnesota Mining and Manufacturing Company (3M) (Massachusetts): On February 20, 1997, Region 1 issued a consent agreement which required 3M to pay a penalty of $75,000 in settlement of Emergency Planning and Community Right-to-Know (EPCRA) violations. EPA initiated this action based on 3M's failure to submit Toxic Chemical Release Inventory (TRI) Reporting forms (Form R) for certain EPCRA listed chemicals used at its manufacturing facility in Chelmsford, MA, during 1992, 1993, and 1994.

RCRA

Aluminum Finishing (Connecticut): On April 16, 1997, the region settled an administrative complaint against Aluminum Finishing Company, Inc., for violations of the Resource Conservation and Recovery Act (RCRA) and Connecticut State Regulations. Aluminum Finishing anodizes aluminum parts. Among other violations, they failed to provide hazardous waste training for personnel and to maintain an adequate contingency plan. The settlement is $26,225, of which $16,737 is for a SEP and $9,488 is a penalty.

Lake Success Business Park (Connecticut): On September 26, 1997, Region 1 signed a major administrative consent order modification under RCRA §3008(h), which will require Sporting Goods Properties, Inc. (SGP) to clean up lead-contaminated soils at the Lake Success Business Park in Bridgeport, CT. The 435-acre property, formerly owned and operated by the Remington Arms Company, was used from 1905 to 1989 for the manufacture, testing, and disposal of ammunition. The reluctance of certain adjacent private landowners to sell their property to SGP caused a longstanding impasse on remediation activities. With the assistance of an in-house mediator provided by Region 1's ADR program, the cleanup and redevelopment plans ultimately moved forward. Motivated in part by this successful use of mediation, EPA and SPG included an ADR provision in the dispute resolution section of the order modification. This is the first application of the newly developed regional model ADR provision, which was based largely on an approach developed for the Central Landfill Superfund consent decree.

Massachusetts Military Reservation (Massachusetts): In August 1997, Region 1 settled three RCRA administrative actions against three federal facilities located at the Massachusetts Military Reservation (MMR) in Bourne, MA. The settlements with the Army National Guard (Camp Edwards), the Air National Guard (Otis Air Force Base), and the 25th Battalion Marines each included SEPs to fund and/or present training workshops for base staff and local officials in handling hazardous materials; responding to emergency spills and explosions; and obtaining assistance from the Federal Emergency Management Agency (FEMA) in the case of catastrophic events. The RCRA cases against the Army and Air National Guards, both large quantity generators, cited failures or inadequacies in the regulatory areas of waste determinations, training, contingency planning, container management, and land disposal restriction notifications. The RCRA case against the Marines facility, a small quantity generator, included failures to make waste determinations, label and date containers, and properly manifest hazardous waste. The cases were complicated by a large Superfund site at the same location.

SDWA

Massachusetts Military Reservation (Massachusetts): On February 27, 1997, Region 1 issued an order under the emergency authority of Safe Drinking Water Act (SDWA) §1431, requiring a full environmental study of the training ranges and impact area at the MMR on Cape Cod. MMR is sited directly over the Cape Cod Aquifer, the only source of drinking water for up to 500,000 people, which was designated by EPA as a "sole source aquifer" under the SDWA in 1982. The military training ranges and firing impact area at MMR lie directly over the apex of the Sagamore Lens, the most productive part of the aquifer. In early 1997, extensive contamination of the aquifer had already been documented at the southern portion of MMR. These plumes of contamination already had contaminated 66 billion gallons of groundwater, and continued to move at a rate of one to three feet per day. Two public water supply wells and scores of residential drinking water wells had already been shut down under the Superfund program as a result of activities at MMR.

In April 1997, Region 1 issued a second SDWA §1431 order, requiring MMR to cease training activities which might present a substantial threat to the drinking water supply, pending completion of a full environmental assessment. EPA remained concerned about the effects of ongoing use of the training ranges and impact area, which included firing of artillery, firing of more than one million rounds of lead bullets annually, and maneuvers using pyrotechnics, propellants, and other materials containing hazardous substances. This second order was affirmed by the Deputy Administrator of EPA in May 1997. The National Guard Bureau is complying with both orders, and a full investigation of the training ranges and impact area is expected to be completed in 1998.

TSCA

Electric Boat Corp. (Electric Boat) and Knolls Atomic Power Laboratory, Inc. (KAPL) (Connecticut): On June 13, 1997, the region issued administrative penalty complaints under the Toxic Substances Control Act (TSCA) to Electric Boat ($20,000) and KAPL ($15,000) for Polychlorinated Biphenyls (PCB) violations that occurred in Windsor, CT. Electric Boat is a subcontractor to KAPL for PCB paint removal at the U.S. Department of Energy

(DOE) facility in Windsor, CT. The complaint alleged that Electric Boat improperly disposed of PCBs and improperly distributed them in commerce. KAPL was responsible for disposing of storage tanks painted with PCB-contaminated paint. The complaint against KAPL alleged that KAPL violated the terms of the EPA agreement regarding approval for the disposal of PCB-contaminated materials.

Ruggles-Klingman (Massachusetts): On February 16, 1997, the region approved a consent agreement consent order (CACO), settling an administrative proceeding under TSCA §16(a) against Ruggles-Klingman Manufacturing Company of Salem, MA. Ruggles-Klingman, a valve manufacturing facility, violated certain requirements of TSCA §6(e) and the PCB regulations by unlawfully distributing PCBs in commerce. Pursuant to the CACO, Ruggles-Klingman paid a civil penalty of $26,300 and certified that all PCB waste had been properly removed from its facility. This case was settled within thirty days of filing pursuant to the region's expedited settlement policy.

MULTIMEDIA

City of Haverhill (Massachusetts): A consent agreement and final order was entered between the City of Haverhill, MA, and Region 1 on June 27, 1997. This multimedia enforcement action concerned violations of RCRA for storing or disposing of hazardous waste without a license, as well as land disposal restrictions, and violations of CWA for failure to have a SPCC plan in violation of the Oil Pollution Prevention regulations. This action came about as a result of an inspection of Haverhill's Department of Public Works (DPW) facilities by the region's Public Agency Team. At the time of the inspection, EPA inspectors found a waste pile of hazardous waste containers abutting a wetland. Under the terms of the consent agreement, the respondent will pay a $17,000 penalty and spend at least $104,580 on a SEP, which includes building a permanent household hazardous waste collection facility and conducting quarterly household hazardous waste collections.

U.S. vs. Trustees of Boston University (Massachusetts): Region 1 entered a judicial consent decree with Boston University (BU) resolving BU's alleged violations of CWA and RCRA. The alleged CWA violations arose out of an oil spill at BU's Charles River campus, and the RCRA violations arose out of an inspection of the BU Medical School campus, a facility that has a high potential to release hazardous contaminants in a populated urban setting.

Under the agreement, BU paid a cash penalty of $253,000 and will conduct two SEPs that will cost an additional $518,000. BU also installed a petroleum product recovery system around the site to remediate the groundwater that was contaminated as a result of the leak. The agreement was reached after BU sought input from Boston community groups regarding the SEPs. One of the SEPs will help control storm water discharges to the Charles River by identifying and constructing new storm water control technologies around sites on BU's campus. Under the terms of the second SEP, BU agreed to perform a project that will remediate and rehabilitate a contaminated parcel of land that has been used as a community garden in the Lower Roxbury area of Boston, an environmental justice community. Initial soil testing at the parcel indicated that lead levels exceed those recommended for growing vegetables.

Westford Anodizing (Massachusetts): On July 14, 1997, Region 1 entered into a consent agreement and final order with Westford Anodizing in settlement of an action under CWA and RCRA. Westford Anodizing is a metalplating facility in Westford, MA. Under the terms of the consent agreement, the respondent paid a $33,625 cash penalty. In addition, Westford will implement a $196,000 SEP that reduces the amount of wastewater it discharges by approximately 60 percent and achieves recovery/recycling efficiencies of between 80 to 100 percent.

CERCLA

U.S. v. Air Products & Chemicals, et al. (New Jersey): On June 27, 1997, a consent decree was entered involving the GEMS Landfill Superfund Site located in Gloucester Township, NJ. Although the U.S. originally sued only nine parties, the court consolidated the case with a pending state action resulting in an action involving over 350 parties. As a result, the U.S. and the state entered into a global settlement. The value of the settlement is approximately $30 million.

The Township of Gloucester started using the GEMS Superfund Site as a landfill in 1952. From 1969 through 1980, wastes such as solvents, paints, asbestos, industrial waste, process wastewaters, and waste liquids, solids, and sludge routinely were disposed of there. The work at the site, which includes construction of a groundwater extraction and treatment system, will be performed by 22 "Reopener Settling Defendants," including the Township of Gloucester, which owns the site. The *de minimis* component of the settlement is composed of 101 municipalities, 62 transporters, and 88 generators.

Because of the presence at the site of a federally-threatened species of plant, *Helonias bullata* or Swamp Pink, the consent decree also has attached a "Swamp Pink Monitoring Plan" as an Appendix, which will ensure that the Swamp Pink receives only minimal impacts from the remediation at the site.

U.S. v. Alcan Aluminum Corp. (New York): On October 28, 1996, a memorandum decision was issued in this precedent-setting CERCLA case. The parties had cross-moved for summary judgment of the issue of Alcan's liability at the Fulton Terminals site and the Pollution Abatement Services (PAS) site. Both sites are located in New York. As a result of the decision in *U.S. v. Olin*, Alcan had moved to dismiss the entire action.

The court found that the express language of CERCLA supported a finding of clear congressional intent to apply CERCLA retroactively. The court held that CERCLA was a constitutional application of the Commerce Clause in two ways: 1) it was a lawful regulation or protection of instrumentalities of interstate commerce, specifically, the protection of surface water and groundwater resources; and 2) CERCLA regulates activities which have a substantial effect on interstate commerce (i.e., it regulates activities causing air or water pollution or other environmental hazards that may affect more than one state). The court found that Alcan did not contest any of the four elements of liability under CERCLA and, therefore, granted the government's motion for summary judgment as to liability.

The district court distilled the Second Circuit remand decision to five remaining issues: 1) what hazardous substances were in the emulsion wastes that Alcan sent to PAS and Fulton; 2) what the background levels of these hazardous substances are at the PAS and Fulton Sites; 3) whether the levels of hazardous substances in the emulsion exceed background levels at the sites; 4) if the hazardous substances do not exceed background, whether the hazardous substances can concentrate; and 5) whether there is a basis for apportionment of liability for costs. On August 20, 1997, after submission of these further briefs, the court denied both Alcan's and the government's motions for summary judgment on the apportionment issue.

U.S. v. Allied Signal, et al. (New Jersey): On January 17, 1997, a consent decree was entered resolving litigation related to the Bridgeport Rental and Oil Services (BROS) Superfund Site in Logan Township, NJ. More than 90 companies and federal and state agencies agreed under the consent decree to contribute at least $221.5 million in reimbursement of past costs and towards future groundwater and wetlands work at the site. The settlement parties include EPA, the State of New Jersey, 79 private PRPs, and a number of other federal and state agencies (named as generator defendants in contribution claims).

U.S. v. American Locker Group, Inc., et al. (New York): On January 10, 1997, a consent decree was entered between the government and American Locker Group, Bristol-Myers Squibb Company, General Electric Company, IBM, and Pass & Seymour. The decree provided that the settlors will pay the U.S. $1,665,685 in reimbursement of

response costs incurred by Region 2 at the Solvent Savers Superfund Site, located in Lincklaen, NY. The decree also provided for the payment to EPA of $125,374 by the U.S. Air Force, also a PRP at the site. This National Priorities List (NPL) site was formerly a chemical waste recovery facility and drum reconditioning business. Pursuant to a 1992 stipulation and order, the court declared these settling defendants jointly and severally liable to the U.S. for response costs incurred or to be incurred at the site. Under a second 1992 stipulation and order, the settling defendants and the Air Force paid $2,325,000 plus interest toward past response costs incurred by EPA.

General Electric Company, et al. (New Jersey): On February 24, 1997, Region 2 issued a UAO to General Electric and John Pascale, Sr., in connection with the Grand Street Mercury Site in Hoboken, NJ. The site consists of a former industrial building, which was converted into 16 condominium units, an attached townhouse, and an adjacent parking lot. Assessment activities undertaken by EPA revealed that mercury, a hazardous substance, is ubiquitous at the site. The order required the respondents to perform certain interim measures to maintain the site in a safe manner until EPA decided how it should be remediated. During spring of 1997, EPA completed a focused feasibility study for remediation of the site and disposition of the former residents, who have participated in a temporary relocation program since January 1996. In September 1997, EPA listed the site on the NPL. The respondents are complying with the order, which requires them to provide site security and building maintenance; these represent continuations of removal activities which EPA had undertaken previously.

Metallurg, Inc., and Shieldalloy Metallurgical Corp. (New Jersey): On March 26, 1997, a settlement agreement of environmental claims by and issues between the debtors and the U.S. and the State of New Jersey was entered in this bankruptcy case. This settlement agreement resolves the environmental claims brought by the U.S., including those of Region 2 and the State of New Jersey, pertaining *inter alia* to the Shieldalloy Superfund Site. Under the terms of the agreement, Region 2 will receive $151,574 of its pre-petition costs, which are being treated as a general unsecured claim (including CERCLA costs and a RCRA penalty which was originally $497,000), and $191,177 of its post-petition costs. Region 2 also will share approximately $25 million in financial assurance with the State of New Jersey. This financial assurance is being set aside by the debtors to pay for the remediation of the site, which is contaminated with hazardous substances. The site remediation is being completed under an administrative consent order between Shieldalloy Metallurgical Corp. and the State of New Jersey. Operations will continue at the site pursuant to the Reorganization Plan approved by the bankruptcy court.

U.S. v. Jane Doe as Executrix of the Estate of Edmund Barbera (New York): On November 14, 1996, the Department of Justice (DOJ), on behalf of Region 2, filed a complaint against nine defendants in connection with the Port Refinery Site located in the Village of Rye Brook, Westchester County, NY. In February 1997, the U.S. amended the complaint to add 39 additional defendants. The complaint seeks recovery of approximately $4.6 million, plus interest, in removal response costs expended by EPA in addressing mercury contamination at the site. The complaint was filed against the decedent estate of the former owner and operator of the facility, the corporate operator of the facility, an individual owner of the facility, and 45 other parties that, EPA believes, arranged for the disposal or treatment of scrap mercury at the facility. Mercury was released from operations conducted between 1970 and 1991 and contaminated that property as well as several neighboring properties. The response action included the removal of more than 6,300 tons of mercury-contaminated soil and debris; demolition of the contaminated garage building and the nearby pool cabana building; off-site disposal of contaminated soil and materials at regulated landfills; and restoration of properties from which contaminated soil and other materials were removed. In June 1997, a *de minimis* settlement was reached with 22 of the defendants.

U.S. v. Monsanto et al. (New Jersey): On April 3, 1997, a consent decree was entered regarding the White Chemical Corp. Superfund Site in Newark, NJ. Under the terms of the decree, Monsanto Company, PPG Industries, and Rhone-Poulenc, Inc., paid $600,000 to EPA to resolve their CERCLA liability in connection with the site. They also withdrew their $2.4 million reimbursement claim, pending before EPA's Environmental Appeals Board, for the cost of work performed at the site under a UAO.

On May 23, 1997, AZS Corporation, the land owner for the site, filed a motion with the court for leave to intervene in the case and vacate the consent decree between EPA and the three generators. AZS claimed that single publication of the public notice of the proposed consent decree in the Federal Register was inadequate, and that it only received actual notice after the public comment period concluded. It contended that if the public notice was given effect, it would unconstitutionally extinguish AZS's right of contribution from the settling parties should EPA seek to recover response costs from AZS. The U.S. and the settling parties argued that: 1) AZS's motion was untimely; 2) post-judgment intervention is granted in only extraordinary circumstances; 3) the notice was all that was required by CERCLA; 4) the U.S. and the settling parties would be substantially prejudiced; 5) AZS was a recalcitrant PRP who failed to comply with the UAO and had removed itself from any discourse regarding the site; and 6) the consent decree was reasonable given the litigation risks. The judge denied AZS's motion to intervene, holding that the U.S. complied with the notice provision, and to allow intervention after such compliance would frustrate the intent of CERCLA to encourage speedy settlements and minimize long, expensive litigation.

Morgan Materials Superfund Site (New York): On August 6, 1997, Region 2 issued an administrative order relating to the Morgan Materials, Inc., Superfund Site, located in the City of Buffalo, Erie County, NY. The site is comprised of an aging storage warehouse with a leaky roof and is located directly adjacent to a residential neighborhood. The warehouse contains an estimated 10,000 drums of chemicals and other materials. The order requires Hertel Warehouse, Inc., Morgan Materials, Inc., and Donald Sadkin to perform a removal action. Respondents are the corporate owner of the site, the corporate operator of the warehouse, and the individual who owns and controls both of those corporations. The removal action is to be performed in cooperation with several chemical companies from which drums originated. The removal action, which is expected to cost more than $2 million, will include the sampling, analysis, securing, stabilization, and segregation of drums at the site, followed by removal and off-site disposal.

U.S. v. Peirce, et. al. (New York): On January 22, 1997, a cost recovery consent decree was entered, settling EPA's remainder case in this action, which concerns the York Oil Company Superfund Site in the Hamlet of Moira, NY. Under the consent decree, six direct defendants and 18 third-party defendants will pay $2,225,000 plus interest toward the government's first operable unit (OU-1) response costs at the site. A separate consent decree providing for the implementation of the response actions selected in EPA's 1988 OU-1 Record of Decision (ROD) for the site was entered by the court on August 10, 1996. After the remedial design/remedial action (RD/RA) consent decree was lodged, the government pursued a remainder case under CERCLA against seven "generator" defendants who were sued by the U.S. in 1992 and 1994, and one "operator" defendant, Kenneth Peirce. In turn, a number of these direct defendants filed third-party claims against other PRPs. After this settlement, the U.S. will have been reimbursed for approximately 76 percent of its outstanding past response costs, 50 percent of its mixed funding share for OU-1, and a significant part of its future oversight costs for the site.

U.S. v. Polymer Applications, Inc. (New York): On April 10, 1997, DOJ filed a civil complaint on behalf of Region 2 against Polymer Applications, Inc., and Kevan M. Green in connection with the Polymer Applications Superfund Site in Tonawanda, Erie County, NY. The complaint seeks civil penalties under CERCLA §104(e)(5)(B) for Green's and Polymer's failure to respond to a July 27, 1995, EPA Request for Information. The complaint also seeks reimbursement of response costs incurred by EPA in connection with its performance of a CERCLA removal action at the site, and a declaratory judgment that Green and Polymer are liable under CERCLA for future response costs incurred by EPA at the site. To date, EPA's site-related response costs, for which Green and Polymer are liable, exceed $5,762,000.

Polymer is the current owner of the site, and Green is the current operator of the site. Polymer and Green also owned and/or operated the site during times that hazardous substances were disposed of there. Polymer manufactured phenolic resins, plastics, and various rubber products at the site between approximately 1972 and 1988. In July 1988, a series of explosions and fires occurred at the site, forcing Polymer to cease its industrial operations. In December 1996, EPA completed a removal action at the site to address significant quantities of hazardous substances that remained there after the 1988 fire, including over 2,000 55-gallon drums of hazardous substances, 12,000 pounds of laboratory chemicals,

and approximately 7,900 tons of phenolic resin compounds.

Port Refinery Site (New York): On June 3, 1997, a *de minimis* partial consent decree was entered between the U.S. and 22 parties in the government's cost recovery action brought in connection with the Port Refinery Superfund Site. The decree provides for a "cash-out" settlement with parties alleged to have arranged for the disposal or treatment of *de minimis* amounts of scrap mercury at the site. The *de minimis* cash-out payments will range from a high of $34,220 to a low of $922 and will aggregate to $287,644. The settlement amounts represent the volumetric fair share of the estimated total site response costs for the settling parties, plus a premium of 100 percent. The settlement does not include a remedy cost reopener.

The site had become heavily contaminated with mercury from the mercury refining and repackaging business run by its now deceased owner. EPA spent more than $4.6 million in a removal action to clean up and restore the site. Earlier in Fiscal Year (FY) 1997, the government filed a complaint seeking reimbursement of response costs against 48 parties, including the settling defendants. Each *de minimis* settling party was alleged to have sent less than 1,000 pounds of scrap mercury, or less than 0.37 percent of the scrap mercury sent by all of the defendants.

Puerto Rico Electric Power Authority (PREPA) - Palo Seco Plant Site (Puerto Rico): On September 29, 1997, Region 2 issued a UAO to PREPA requiring it to carry out a remedial investigation and feasibility study (RI/FS) for its plant site located in the Palo Seco Ward of Toa Baja, PR. The site is not on the NPL. Analysis of soil samples and sediment samples collected at the site revealed the presence of various hazardous substances at elevated concentrations above background levels, including PCBs, antimony, barium, beryllium, cadmium, chromium, cobalt, copper, lead, nickel, selenium, and zinc. The RI/FS required under the order is designed to: 1) determine the nature and extent of contamination and any threat to the public health, welfare, or environment caused by any release or threatened release of hazardous substances, pollutants, or contaminants at or from the site; and 2) determine and evaluate alternatives for the remediation or control of the release or threatened release.

SCP/Carlstadt Site (New Jersey): On June 23, 1997, Region 2 issued an administrative order on consent (AOC) to 60 settling parties for a *de minimis* settlement regarding the Scientific Chemical Processing (SCP) Superfund Site in Carlstadt, NJ. The site formerly was used to operate an industrial waste handling, treatment, and disposal enterprise. The respondents agreed to pay a total of $4,877,194. In return for these payments, each respondent will receive a covenant not to sue from the U.S., subject to two reopeners. The first reopener concerns incomplete, inaccurate, new, or false information which indicates that any respondent's contribution to the site was higher than the allocable share established for the settlement and which materially affects the terms of the settlement. The second reopener addresses potential cost overruns associated with any future response action at the site. EPA may seek an additional payment by each respondent in the event that total site response costs exceed $200 million. In addition to the reopener provisions, a premium of approximately 60 percent is included in each respondent's total settlement amount. This premium serves as a risk apportionment device, similar to an insurance premium, under which the risks taken by EPA for providing the respondents with a release from liability are offset by a payment in excess of the cost projected to complete the remedy.

Warwick Landfill Site (New York): On November 8, 1996, a *de minimis* consent decree for the Warwick Landfill Site was entered. The settling defendants are Lightron Corporation (Lightron) and Revere Smelting & Refining Corporation (RSR). The landfill is a NPL site located in the Town of Warwick, Orange County, NY. It was operated as a municipal landfill by the Town of Warwick from the mid-1950's through 1977, although documented instances of hazardous substance disposal occurred during that time. From 1977 until closure in 1980, the site was operated by Grace Disposal Ltd. During that time, significant disposal of industrial wastes containing hazardous substances occurred, including wastes generated by Lightron and RSR. Under the terms of the settlement, each defendant will pay its fair share of the government's past and future response costs, based on the percentage of hazardous substances they contributed to the site. Lightron will pay $5,704 and RSR will pay $1,070. By separate settlement, each of these defendants also will pay its fair share of remedy costs to a group of PRPs who are performing the site remedy. In consideration of

both payments, the settling defendants will receive a covenant not to sue for the site and contribution protection for all costs incurred at the site.

U.S. v. Wasserman (New York): On August 15, 1997, the government's summary judgment motion was granted in this case involving the Barrier Industries, Inc., Superfund Site located in Port Jervis, NY. The ruling found Kurt Wasserman, CEO and majority shareholder of Barrier Industries, personally liable for EPA's response costs as an operator under CERCLA. The ruling also granted the government's claim under the Federal Debt Collection Procedures Act that the defendant fraudulently transferred property through a divorce settlement to avoid recovery by EPA. The ruling dismissed all defenses and counterclaims by the defendant, including claims for EPA's disposal of abandoned product, and dismissed a suit against a third party defendant whom EPA declined to name as a PRP. A trial regarding EPA's costs is pending.

Barrier formulated and manufactured janitorial chemicals at the site from 1978 until the facility was abandoned late in December 1993. Sometime prior to January 2, 1994, pipes in the facility burst, flooding most of the facility's ground floor and basement. Many drums at the site were exposed to freezing conditions and burst and spilled their contents throughout the building or expanded out of their bungs. In response to these conditions, EPA performed a removal action at the site in 1994-95 to stabilize, secure, and dispose of the hazardous substances. The removal action and EPA's associated investigative and enforcement activities to date have cost in excess of $3.8 million.

CLEAN AIR ACT

Guardian Industries, Inc. (Puerto Rico): Although initially a prevention of significant deterioration (PSD) permit appeal, this case also resulted in an administrative consent order resolving the company's enforcement liabilities for commencing construction prior to the effective date of its PSD permit. The case originated out of a challenge filed by two citizen petitioners to a PSD permit issued on April 1, 1997, by the New York State Department of Environmental Conservation (NYSDEC) to Guardian Industries. The petitioners argued that the NO_x best available control technology (BACT) determination in the permit was incorrect. When the matter was brought to EPA's attention, a further problem was identified: the permit had been issued without a delayed effective date, as required by the PSD rules. Guardian had started construction as the PSD permit appeal proceeded before EPA's Environmental Appeals Board.

Region 2, though not directly a party to the appeal proceeding, ultimately crafted a settlement among the parties. The settlement involves a revision of the PSD permit to impose substantially more restrictive NO_x emissions limits. To achieve these, Guardian will acquire and install state-of-the-art "3-R" technology. Guardian also agreed to return to the State of New York over 100 tons of NO_x emission credits given by the state as an inducement to locate its new plant in New York. These tons would not be needed under the revised permit. Finally, in an August 1997 AOC, Guardian also resolved its potential enforcement liability with EPA. The consent order includes a SEP, in which Guardian agreed to hold 50 tons of unused NO_x emission credits for the life of the plant, thus effectively "retiring" those credits for 30 to 40 years.

U.S. v. Citgo Asphalt Refining Co. (New Jersey): On February 10, 1997, a consent decree was entered in this Region 2 case. This case arose in the context of EPA's concern over widespread failure by oil refineries to comply with New Source Performance Standards (NSPS) emission standards for SO_2 and SO_2 monitoring requirements. The Citgo facility in West Deptford, NJ, was found to have process heaters subject to those NSPS requirements. EPA determined that Citgo's process heaters were not in compliance with the SO_2 testing and monitoring requirements, or with the SO_2 emission limitations. This settlement resulted in a large reduction in SO_2 emissions (approximately 125 tons/year). It also provides for payment of a $1.23 million civil penalty--one of EPA's largest single-source CAA penalties.

U.S. v. Phillips Puerto Rico Core, Inc. (Puerto Rico): On January 10, 1997, a stipulation and final order was entered against Phillips Puerto Rico Core, Inc. This was the first enforcement action nationwide involving the CAA National Emission Standards for Hazardous Air Pollutants (NESHAP) for benzene waste operations. The complaint also cited Phillips for violations of the NESHAP for equipment leaks of benzene and benzene storage vessels. Phillips subsequently came into compliance with these requirements. In addition, between June

1990 and August 1994, various recordkeeping and reporting violations of the benzene NESHAP were committed by Phillips at its petrochemical facility located in Guayama, Puerto Rico. The stipulation provides for payment of a civil penalty of $473,000.

U.S. v. Puerto Rico Sun Oil Company, Inc. (Puerto Rico): On June 18, 1997, a consent decree was entered, resolving this 1996 lawsuit. The complaint alleged that Puerto Rico Sun Oil (PRSO) violated CAA NSPS as well as its Commonwealth of Puerto Rico permit. The commonwealth regulation requiring such a permit is part of Puerto Rico's federally-approved State Implementation Plan (SIP). The settlement included injunctive relief provisions and provided for the payment of $250,000 in civil penalties. PRSO agreed not to burn gaseous fuel in its affected boilers, thus rendering it no longer subject to the NSPS in question. PRSO further agreed that if it should recommence burning gaseous fuel, it will comply with the applicable NSPS rule in the affected boilers. Finally, PRSO also agreed to pay interest on the penalty amount that had accrued since December 30, 1996.

U.S. v. San Juan Cement Co. (Puerto Rico): On October 17, 1996, a consent decree was entered. The complaint alleged that the San Juan Cement Company violated the NSPS governing the operation of non-metallic mineral processing plants by failing to conduct timely performance testing of air emission sources. The complaint also alleged that the company failed to install a required continuous opacity monitoring system to measure emissions from a baghouse at its Portland cement plant. The consent decree required San Juan Cement to pay $500,000 in penalties for the violations. In addition, the decree contains injunctive provisions, which require the company to complete performance testing of the equipment at its rock-crushing plant and to install a continuous monitoring device at the baghouse.

CLEAN WATER ACT

Atlantic States Legal Foundation, State of New York v. Onondaga County (New York): On August 21, 1997, an amended consent decree was signed by the parties resolving long standing CWA citizens litigation involving the cleanup of Lake Onondaga. The litigation involved a citizens suit to require that Onondaga County's Metro POTW meet CWA requirements and state water quality standards. Although not formally a party to this litigation, EPA played a central role in working with the State of New York to ensure that any plan put forward was technically sound, cost-effective, and implementable. The plan, ultimately embodied in a consent decree signed by the state, the county, and the citizens group, calls for a 15-year plan for POTW upgrade, combined sewer overflow (CSO) elimination, and other measures potentially costing $300-400 million to ensure that water quality standards ultimately are met in the lake, which currently is one of the most polluted lakes in the country. The amended consent decree also requires the county to pay a cash penalty of $50,000 to the state and undertake SEPs worth at least $387,500 to control nonpoint source pollution to the lake. The region also coordinated with DOJ to ensure that any consent decree negotiated by the parties would be acceptable to the U.S. when presented for review under CWA §505(c)(3).

Desarrolladores del Cibuco, S.E. and Constructora Dos Bocas, Inc.; Easton, Inc.; Parques Metropolitanos; and Tajaomar Development, S.E.(Puerto Rico): In FY97, the region resolved four CWA §309(g) Class II administrative penalty actions involving the enforcement of NPDES storm water permitting. In each case, a construction project commenced without the necessary authorization under either a general permit or individual permit. The cases involved the following respondents: Tajaomar Development, S.E., where a penalty of $44,500 was assessed; Desarrolladores del Cibuco, S.E. and Constructora Dos Bocas, Inc., where a total penalty of $62,967, including interest, was assessed; Parques Metropolitanos, where a penalty of $31,500 was assessed; and Easton, Inc., where a penalty of $51,000 was assessed. In all four cases, the respondents have certified full compliance with the General Storm Water Permit requirements.

Puerto Rico Aqueduct and Sewer Authority (PRASA - Lares) (Puerto Rico): On March 31, 1997, Region 2 issued an administrative penalty complaint under CWA §309(g) against PRASA for its violation of effluent limits in the NPDES permit issued for its Lares sewage treatment plant. The complaint alleges numerous violations of permit effluent limits for biochemical oxygen demand (BOD), total suspended solids (TSS), fecal coliform, and residual chlorine, as well as instances of improper operation and maintenance. The complaint seeks a penalty of $125,000.

Puerto Rico Aqueduct and Sewer Authority (PRASA - La Paguera) (Puerto Rico): On April 15, 1997, a CACO was issued in this CWA §309(g) action assessing a cash penalty of $10,000 and requiring the performance of a $30,000 SEP, under which PRASA will conduct workshops for its industrial users to better inform them of pretreatment requirements and ways to comply.

Puerto Rico Aqueduct and Sewer Authority (PRASA - Arecibo) (Puerto Rico): On August 6, 1997, Region 2 issued an administrative penalty complaint under CWA §309(g) against PRASA for its violation of effluent limits in the NPDES permit issued for its Arecibo sewage treatment plant. The complaint alleges numerous violations of permit effluent limits for BOD, TSS, fecal coliform, and residual chlorine, as well as instances of improper operation and maintenance. The complaint seeks a penalty of $100,000.

Puerto Rico Aqueduct and Sewer Authority (PRASA - Loiza); Puerto Rico Aqueduct and Sewer Authority (PRASA - Gurabo) (Puerto Rico): On September 29, 1997, CACOs were issued in these CWA §309(g) cases. The CACOs jointly assessed $35,000 in cash penalties and require the performance of a $200,000 SEP. Under the SEP, PRASA will install telemetry equipment at 20 pump stations in the San Juan Region. The equipment, consisting of monitoring devices and remote computer/radio terminals, will allow PRASA to monitor the status of equipment at the pump stations and detect malfunctions in a more timely manner, reducing the instances of bypasses and discharges of inadequately treated sewage.

U.S. v. Puerto Rico Administration of Corrections (PRAC) (Puerto Rico): On March 25, 1997, an amended consent decree was entered in this case. Under the amendment, PRAC will cease the discharge of pollutants from three of its correctional facilities pursuant to specified schedules. In addition, PRAC paid $625,000 in penalties resulting from its violations of a 1992 consent decree entered in this action. PRAC also will undertake a SEP worth no less than $600,000 to improve the drinking water supplies of communities neighboring some of its facilities. Under the SEP, PRAC has arranged for PRASA to construct new water lines in these communities, repair holding facilities, and monitor the quality of the potable water being supplied to consumers.

U.S. v. Puerto Rico Aqueduct and Sewer Authority (PRASA) (Puerto Rico): On April 17, 1997, an advanced treatment stipulation was entered in this case. Pursuant to the terms of the stipulation, on May 19, 1997, PRASA submitted payment of $375,000 to the U.S. Treasury. This amount represents a complete settlement of uncontested and contested dollar amounts requested as penalties and not yet assessed by the court, as identified by the U.S. in its 27 quarterly motions to enforce the 1985 and 1988 orders, filed between July 1989 and March 1996. During FY97, Region 2 filed three more quarterly motions to enforce the 1985 court order issued in this case. In these motions, EPA sought collection of $83,800 in stipulated penalties for various violations of the 1985 court order. In addition, in FY97, PRASA self-assessed and paid to the Treasury $251,400 for violations of the Pump Station Stipulation entered in this action in 1995.

U.S. v. Puerto Rico Aqueduct and Sewer Authority (PRASA) (Puerto Rico): On August 1, 1997, on behalf of Region 2, DOJ lodged a consent decree, which settles a case filed in December 1996 against PRASA, alleging violations of its discharge permit at its sewage treatment plant in Mayagüez, PR. This facility discharges approximately ten million gallons per day of sewage, treated only to the primary level, into Mayagüez Bay. Under the consent decree, PRASA will pay $150,000 in civil penalties and contribute another $400,000 to the Mayagüez Watershed Initiative to identify and address nonpoint sources of pollution to the Mayagüez watershed. The decree also requires that PRASA construct facilities necessary to bring its Mayagüez Regional Wastewater Treatment Plant into compliance with its CWA permit.

The consent decree contains two separate compliance tracks. The primary track requires that the plant meet its discharge permit conditions by December 31, 2001. The second track is available to PRASA only if Congress passes specific legislation which would allow it to submit an application to EPA for a waiver from its permit limits, and EPA tentatively approves the application. EPA previously denied PRASA's application based on the existing outfall location in Mayaguez Bay near coral reefs. PRASA intends to modify its original waiver request by proposing to install a deep water outfall that would extend its wastewater discharge beyond the Bay and into the ocean.

On December 24, 1996, a citizens group, Mayagüezanos por la Salud e Ambiente, Inc., moved to intervene in this case. The citizens were concerned that EPA would give PRASA too much time to install secondary treatment and that the relief being sought in the federal action does not address 17 pollutants that are being discharged in excess of the NPDES permit limits, but will not be affected by secondary treatment.

U.S. v. Virgin Islands Department of Public Works (Virgin Islands): During FY97, the Virgin Islands DPW paid $375,000 in stipulated penalties for violations of a January 1996 amended consent decree entered in this Region 2 NPDES enforcement case. The amended decree set a compliance schedule for the Virgin Islands to construct improvements at eleven existing POTWs and construct two new POTWs. This injunctive relief is expected to cost between $35 and $40 million. A court monitor was appointed to oversee compliance with the amended decree, which had also provided for payment of $675,000 in stipulated penalties for violations of a prior court order in this case.

U.S. v. Warner-Lambert (Puerto Rico): On September 24, 1997, a consent decree was entered in this civil action. The decree assessed a civil penalty of $670,000 for violations of the defendant's NPDES permit at its pharmaceutical manufacturing facility in Vega Baja, PR. The violations occurred between November 1992 and May 1995. This civil case was a parallel proceeding to a criminal case in which a plea agreement was entered on September 19, 1997, under which the defendant corporation is to pay a $3 million criminal fine for conduct prior to November 1992.

EPCRA

A.T. Reynolds and Sons, Inc.; Happy Ice LLC; Long Island Ice and Fuel Corporation; Queensboro Farm Products, Inc.; and United Food Service, Inc. (New York): On September 30, 1997, Region 2 issued administrative consent orders to five companies which entered into sector agreements with the Agency pursuant to the national EPCRA §312 Food Sector Initiative. The companies are: A.T. Reynolds and Sons, Inc., Kiamesha Lake, NY; Happy Ice LLC, Fairport, NY; Long Island Ice and Fuel Corporation, Riverhead, NY; Queensboro Farm Products, Inc., Canastota, NY; and United Food Service, Inc., Albany, NY. Pursuant to this initiative, companies in the food sector, which were not in compliance with the requirements of EPCRA §312, were given the opportunity to come into compliance and settle their EPCRA §312 liability for a penalty of $2,000. The respondents have since come into compliance with these requirements by submitting their Tier I/Tier II forms, and have each executed a settlement agreement to pay a $2,000 penalty.

American Cyanamid Company (New York): On May 30, 1997, Region 2 issued an administrative CACO to the American Cyanamid Company resolving this case involving violations of EPCRA. The complaint alleged 17 failures at the company's Pearl River, NY, facility to file Form Rs for reporting years 1990 through 1993. In the settlement, the company agreed to perform a SEP, in which it would donate a foam fire truck to the Rockland County, NY, HazMat Emergency Response Team. Cyanamid also agreed to pay a $129,000 civil penalty.

Arma Textile Printers, Inc. (New York): On January 6, 1997, Region 2 issued an administrative CACO in settlement of a proceeding under EPCRA against Arma Textile Printers, Inc., of Newburgh, NY. Arma, a dyer of fabrics, violated the toxic chemical reporting requirements of EPCRA by failing to submit Form R reports for ammonia and the non-aerosol form of hydrochloric acid. In the consent agreement, Arma agreed to perform a SEP for pollution prevention, which involves changing its dyeing process for fabric by eliminating HCl and substituting non-toxic water soluble solvents for ammonia. Based on EPA's PROJECT economic model, implementation of this SEP is estimated to cost over $900,000. Arma also agreed to pay a civil penalty of $11,900.

Astro Electroplating, Inc. (New York): On February 28, 1997, Region 2 issued an administrative CACO to Astro Electroplating, Inc. In the settlement, Astro agreed to pay a civil penalty of $10,000 and to spend over $80,000 on a SEP. Astro will install an evaporation system in its electroplating process that will reduce both the volume and the toxicity of hazardous waste that the respondent presently disposes of in a landfill. The complaint in the case alleged violations of EPCRA §311 for failure to submit material safety data sheets (MSDSs) for sulfuric acid to the local emergency planning commission (LEPC), the state emergency response commission (SERC), and the local fire department.

In addition, the complaint alleged violations of EPCRA §312 for failure to submit emergency and hazardous chemical inventory form (Tier I or Tier II) for nitric acid to the LEPC, SERC, and the local fire department for the years 1992 through 1994. Finally, the complaint alleged violations of EPCRA §313 for failure to submit Toxic Chemical Release Inventory forms (Form Rs) to EPA for copper, sulfuric acid, and nitric acid for the year 1989 and for these same chemicals plus hydrochloric acid for the years 1990 through 1992.

Austin Productions, Inc. (New York): On January 2, 1997, Region 2 issued an administrative complaint against Austin Productions, Inc., located in Holbrook, NY. Austin is the owner and operator of a facility that is subject to the annual toxic chemical release reporting requirements under EPCRA §313. The complaint sought a civil penalty of $119,000 for Austin's failure to timely submit complete and accurate Toxic Chemical Release Inventory Reporting forms for the following chemicals: toluene, acetone, and methyl ethyl ketone, for calendar years 1992, 1993, and 1994.

General Electric Company (New York): On June 3, 1997, Region 2 issued an administrative complaint to the General Electric Company (GE), charging multiple violations of EPCRA §313, and seeking a $226,000 penalty. GE operates a major facility in Waterford, NY, where it manufactures a wide variety of silicone-based chemicals. The complaint charges that GE failed to submit required, annual Toxic Chemical Release Inventory Reporting forms for dimethyl sulfate and ethylene glycol it manufactured or otherwise used in the years 1991-1994. The complaint also charges that annual Toxic Chemical Release Inventory Reporting forms submitted by the respondent in 1991-1994 for chlorine and 1,1,1-trichloroethane contained significant data quality errors.

The complaint resulted from a multimedia inspection of the facility by Region 2 the previous year. The company disclosed certain violations shortly after notification of the planned inspection and sought penalty mitigation under EPA's Self-Policing Policy. Region 2, with the assistance of the Office of Enforcement and Compliance Assurance (OECA), determined that the policy did not apply.

FIFRA

Givaudan-Roure, Inc. (New Jersey): On June 30, 1997, Region 2 issued an administrative complaint against Givaudan-Roure Corporation, a manufacturer and exporter of pesticides located in Clifton, NJ. The complaint proposes a civil penalty of $95,200 for violations of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Specifically, the complaint alleges that on 26 separate occasions Givaudan-Roure exported misbranded pesticides in violation of FIFRA's requirement that certain information must appear both in English and in the official language of the country of import. This is to ensure that the important safety and health information on the labels can be understood by the likely end-users. Givaudan-Roure exported pesticides bearing English-only labels, and English is not the official language of any of the countries that received the pesticides.

Safetec of America, Inc. (New York): On September 30, 1997, Region 2 issued an administrative complaint proposing to assess a civil penalty of $230,500 against Safetec of America, Inc. The complaint alleged that the company violated FIFRA by selling or distributing pesticide products that were not registered. These products, which are antimicrobial pesticides, include Easy Cleans Hard Surface Wipe Towellettes, Safety Cleanz, Red Z, and Yellow Z. Unregistered antimicrobial pesticides were the subject of a national EPA enforcement initiative in 1996. In addition, the complaint alleged that Safetec failed to timely submit to EPA an annual pesticide production report for 1996. Safetec previously was issued two Stop Sale, Use, or Removal Orders on November 26, 1996, and January 30, 1997, concerning the Easy Cleans Hard Surface Wipe. The orders prohibited the respondent from selling, using, or distributing all quantities of the unregistered pesticide product. The company appears to have complied with those orders.

Tifa, Ltd. (New Jersey): On September 30, 1997, Region 2 issued an administrative complaint against Tifa, Ltd., citing 34 violations of FIFRA and assessing a proposed civil penalty of $170,000. Tifa owns a production and distribution facility located in Millington, NJ, where it manufactures, repackages, and relabels industrial organic chemicals, including various pesticides. On November 21, 1995, and April 15, 1996, EPA issued a Suspension Order and a Stop Sale, Use, Or Removal Order, respectively,

which directed that Tifa could not legally distribute and/or sell its pesticide products containing the active ingredient Rotenone. The orders were based on Tifa's failure to comply with an earlier EPA pesticide registration data call-in. Inspections were conducted subsequently at Tifa's facility, revealing violations including the importation, offering for sale and distribution, and sale and distribution of suspended pesticide products; the offering for sale of a registered pesticide product for a non-registered use; and the production of pesticides in a non-registered pesticide producing establishment.

ODBA & MPRSA

Port Authority of New York and New Jersey: On July 31 and August 7, 1997, Region 2 issued two administrative penalty complaints under the Marine Protection Research & Sanctuaries Act (MPRSA) §105 against the Port Authority of New York and New Jersey for its violations of a dredge material disposal permit issued by the U.S. Army Corps of Engineers. The first complaint alleges that, on four occasions, the Port Authority disposed of dredge material at locations other than that specified in its MPRSA permit. The second complaint alleges that, on other occasions, the Port Authority disposed of dredge material at non-permitted locations and that it failed to report such improper disposal as required. These complaints seek the assessment of a total of $125,000 in civil penalties ($50,000 and $75,000, respectively).

U.S. v. Bergen County Utilities Authority (New Jersey): On March 21, 1997, a stipulation and order was entered in this Ocean Dumping Ban Act (ODBA) case. Under an earlier ODBA consent decree, the Bergen County Utilities Authority (BCUA) is to provide 100 percent of its sludge for beneficial use by composting. However, due to its routine operational practices, a small percentage of BCUA's sludge cannot be dewatered adequately to allow for chemical stabilization and composting, and must be disposed of as landfill cover. Under the terms of the stipulation, BCUA will alter its practices so that all its sludge is available for beneficial use and will pay a stipulated penalty of $75,000 for its violations of the consent decree.

RCRA

Autoridad de Tierras de Puerto Rico (Puerto Rico): On May 28, 1997, Region 2 issued an administrative complaint to the Autoridad de Tierras de Puerto Rico (Land Authority of Puerto Rico) for violations of the underground storage tank (UST) regulations. The complaint alleges that the Land Authority failed to provide leak detection for USTs at several of its facilities and failed to permanently close a tank that had been temporarily closed for more than 12 months. The six-count complaint seeks a total penalty of $165,310.

B&B Wood Treating & Processing Co., Inc. (Puerto Rico): On October 29, 1996, Region 2 won a partial accelerated decision awarding the Agency a civil penalty of $220,825 in this administrative case, the full amount sought in the complaint. This case, initiated in June 1993, was the first administrative prosecution against a wood preserving operation for violations of the then newly effective RCRA wood preserving rules, 40 CFR 265, Subpart W. It was part of the Agency's nationwide Illegal Operator initiative against those facilities that had not advised EPA of their hazardous waste operations. The court ruled that the Agency had justified its proposed civil penalty on the basis of EPA's RCRA Civil Penalty Policy. The court upheld EPA's decision not to adjust the gravity-based penalty in light of the respondent's failure to come forward with any evidence in support of a possible mitigation of the penalty. The court also held that a summary determination as to the penalty amount, rather than an evidentiary hearing on the record, did not deprive the respondent of due process.

City of New York Department of Transportation (New York): On June 6, 1997, Region 2 issued an administrative CACO to the New York City Transportation Department's Bureau of Bridges. The settlement resolves a FY93 case involving the city's management of lead-containing paint chips generated during bridge repainting operations. The complaint alleged that the city generated and transported these hazardous paint chip wastes without a RCRA identification number and without RCRA manifests, and had stored these wastes without a RCRA permit or interim status authorization. As a result of this enforcement action, the city initiated significant new measures--some extending beyond any existing legal requirements--to prevent recurrence of the violations and to improve its management of lead-based paint removal operations. The city drafted a lead-based paint removal protocol that will serve as the guide for lead-based paint removal work at all city-owned bridges. This protocol includes activities such as air

and soil monitoring during lead-based paint removal activities. Implementation of the protocol, which has become a national model for this kind of work, will cost the city over $5 million. The settlement also provides for the city to pay a civil penalty of $145,000.

Compañia Petrolera Caribe (Puerto Rico): On September 29, 1997, Region 2 issued an administrative complaint seeking $601,011 in civil penalties from Compañia Petrolera Caribe for its failure to comply with UST leak detection requirements for 55 USTs it owns at 26 different facilities. EPA's complaint also includes an order requiring the company to comply with the UST leak detection requirements for all USTs it owns. The company's main office is located in San Sebastian, PR. Compañia Petrolera owns a chain of gas stations, some or all of which are operated by independent dealers. In May 1996, EPA inspected one such gas station and found that the company was in violation of the UST leak detection requirements.

Eastman Kodak Corp. (New York): On February 28, 1997, Region 2 issued an administrative CACO resolving this case against the Eastman Kodak Company, which operates a major facility in Rochester, NY. The region brought the administrative case in October 1996 for multiple violations of RCRA requirements at that facility. The settlement provides that Kodak will pay a civil penalty of $90,000. The case involved eleven counts of violations of regulations concerning hazardous waste and/or Kodak's RCRA Permit. This case represents a follow-up of a number of matters which were identified at the time the U.S. brought a major RCRA civil judicial case against Kodak, which was settled in 1994 through a consent decree. Under the consent decree, Kodak at that time paid a civil penalty of $5 million and is undertaking major SEPs as well as a concerted improvement program in its management of hazardous wastes.

Estate Mint, Inc., Ahmad Musaitif, and Estate Mountain, Inc. (Virgin Islands): On May 20, 1997, Region 2 issued an administrative complaint against the above-named respondents, who owned and operated USTs at two service stations, Estate Mint Service Station and Hassan's Service Station, in St. Croix, VI. The complaint seeks a civil penalty of $147,610 against the three respondents for their failure to comply with a number of UST requirements, including those pertaining to release detection, permanent closure of a tank, site characterization, and submittal of certain reports.

Jamaica Water Supply Company and Dynamic Painting Corp. (New York): On November 25, 1996, the respondent was found liable and fined a penalty of $51,750. Jamaica Water Supply Company is the owner of a municipal water tower. Repainting operations at the tower resulted in the wide dispersion of paint chips containing lead in a residential neighborhood, which is in violation of RCRA. Dynamic Painting was the painting contractor for this job. Violations also included failure to properly label a drum of lead-contaminated paint chip waste. The judge found that documents submitted by the respondent established a *prima facie* case that waste was hazardous and, where the respondent fails to present any evidence to the contrary, such evidence suffices to establish liability. The regulation places the burden on the generator to determine the nature of the waste. In addition, the judge rejected the respondent's arguments that EPA failed to establish that the sampling data constituted a "representative sample," noting that the respondent had stated affirmatively that the sample was representative in response to a RCRA §3007 request for information from EPA.

New Jersey Transit Corp. (New Jersey): On July 3, 1997, Region 2 issued an administrative CACO to New Jersey Transit Corporation, Inc., resolving a case filed in 1995. New Jersey Transit agreed to pay a civil penalty of $130,000 and perform two SEPs for a cost of $190,000. In the complaint, EPA alleged that the respondent failed to properly close numerous UST systems in accordance with applicable rules; failed to satisfy the release detection requirements for USTs and associated piping; and failed to use required spill and overfill equipment. The two SEPs involve the removal and disposal of asbestos insulation--one at a bus garage in Paterson, the other at Penn Station in Newark, which is a conduit for 80,000 daily commuters. Both of these facilities are located in areas that raise potential environmental justice concerns.

Puerto Rico Aqueduct and Sewer Authority (PRASA) (Puerto Rico): On May 28, 1997, Region 2 issued an administrative complaint against PRASA alleging UST violations at 19 facilities owned and operated by the Authority in Puerto Rico. The complaint seeks a civil penalty of $305,297 for PRASA's failure to comply with UST requirements,

including those pertaining to release detection and permanent closure of tanks.

San Juan Cement Company, Inc. (Puerto Rico): On April 11, 1997, Region 2 issued an administrative CACO resolving this case. The complaint in the action alleged that San Juan Cement violated the RCRA rules governing the burning of hazardous waste in an industrial furnace, as well as specific limits in its Certificate of Compliance (which is equivalent to a permit and authorizes, subject to restrictions, the burning of hazardous waste in an industrial furnace). The settlement requires San Juan Cement to cease burning hazardous waste in its cement kiln and to close the kiln pursuant to an EPA-approved closure plan. San Juan Cement agreed to pay a civil penalty of $77,500 for its violations.

Universal Metal and Ore Company, Inc. (New York): A motion to dismiss Region 2's administrative complaint against Universal Metal and Ore Company, Inc., of Mount Vernon, NY, was denied on March 14, 1997. The respondent's motion sought dismissal of the EPA complaint, filed in 1991, on the basis that nickel-cadmium (NiCd) batteries held for recycling were not "discarded" and thus not subject to RCRA. Region 2 issued its complaint citing Universal for multiple violations of RCRA at its Westchester County facility and assessing a total proposed civil penalty of $853,998. (This case was initiated before EPA issuance of the "Universal Waste Rule" in 1995 and before passage by Congress of the Mercury Containing and Rechargeable Battery Management Act in 1996. The region subsequently settled this case with Universal in an agreement that provides for payment by the company of a reduced penalty of $36,000, which reflects the change in the law.)

U.S. v. Humberto-Escabi-Trabal, Environmental Management Services and South West Fuel, Inc (Puerto Rico): On April 2, 1997, a default judgment was entered against Environmental Management Services, Inc. (EMS) in the amount of $50,000; against Humberto-Escabi-Trabal in the amount of $2,273,000; and against South West Fuel, Inc. (SWF) in the amount of $1,413,000. This default judgment arose from a civil complaint alleging that the Puerto Rico Sugar Corporation, Escabi-Trabal, SWF, and EMS violated the RCRA used oil rules. The Sugar Corporation previously entered into a consent decree and agreed to pay a civil fine of $250,000 to resolve its liabilities. The default judgments entered against SWF and Escabi-Trabal are, to date, the largest corporate and individual civil judicial penalties that have been obtained for violating EPA's used oil requirements.

Sugar Corporation now has constructed the appropriate secondary containment around its tank that stored the used oil and has agreed to pay for most of the costs associated with removing and disposing of the used oil that had remained at its facility. Escabi-Trabal has cleaned up and has paid for the removal and disposal of the used oil at EMS.

U.S. v. Mobil Oil Corp. (New York): On September 11, 1997, the judge dismissed Mobil's challenge to a Region 2 unilateral order and struck three of Mobil's affirmative defenses. The March 1996 complaint in this case sought penalties and an injunction against Mobil's use of two large surface impoundments, which the government claims Mobil used, after having lost "interim status," to dispose of benzene in concentrations sufficient to be labeled a hazardous waste. The judge held that there is no pre-enforcement review of an order issued under RCRA §3013 and that such orders are not "final agency action" until EPA initiates enforcement proceedings.

In addition, the judge held that the EPA's interpretation of what constitutes a "representative sample" with regard to samples taken at the Mobil facility was not "plainly erroneous" and, therefore, gave deference to EPA's interpretation of its own regulation.

U.S. v. Proteccion Technica Ecologica, Inc. (Puerto Rico): On July 14, 1997, the U.S. moved to lodge an amended consent decree regarding the Proteccion Technica Ecologica, Inc. (Proteco) facility located in Peneulas, PR. The amended consent decree was signed by Proteco, the operator of the facility, and Compania Ganadera Del Sur, Inc., the owner of the facility. This amended consent decree resolves violations of the original decree entered in October 1987 and modifies the injunctive relief required in light of new regulations and the fact that the facility is no longer permitted to manage hazardous waste.

The amended decree governs Proteco's closure of the remaining hazardous waste units at its facility. Pursuant to the amended decree, Proteco must close, at its own expense, all existing hazardous waste units at its facility pursuant to EPA approved closure plans. Proteco is required to establish, and make

monthly deposits into, a post closure escrow account until the estimated cost of post closure is met, thereby ensuring the funds necessary to implement post closure. The amended consent decree also requires Proteco to pay a further civil penalty of $591,111. The total penalty paid by Proteco under the original consent decree and this amended consent decree will be $1.2 million.

The penalty in the amended decree was mitigated in consideration of Proteco's inability to pay a larger amount. However, if there is a sale of Proteco's assets or 50 percent of the corporation's stock within one year of the date of the public notice of the proposed closure plan for the facility, Proteco must pay an additional $225,671, the amount of penalty mitigated under the original consent decree.

SDWA

Town of Hempstead (New York): On July 31, 1997, Region 2 issued an AOC which settles a case filed in 1995 against the Town of Hempstead, alleging violations of unpermitted discharge into an underground injection well and endangerment of a Department of Highways facility. The facility is located in Roosevelt, NY, an area identified by the region as both a low income and minority area.

Under the AOC, the town will implement a compliance/closure plan at the Roosevelt facility, pay a $5,500 penalty, perform a facility audit, and provide employee training. In addition, the town has agreed to inventory and, if appropriate, address all of its facilities at which there may be Class V injection wells. Further, the town has agreed to take actions, such as testing for pesticides and keeping the public informed of the status of the closure implementation at the Roosevelt facility, through public meetings.

U.S. v. City of New York (New York): On April 24, 1997, on behalf of EPA Region 2, DOJ filed a complaint against the City of New York for its violation of the SDWA Surface Water Treatment Rule (SWTR) at the city's Croton Water Supply. The Croton Water Supply is a surface water source and provides approximately ten percent (150 million gallons/day) of the city's drinking water to some nine million people in the city and adjacent Westchester County. Under the SWTR, the city was required to provide filtration and disinfection of the supply by June 1993. In 1992, the city entered into an administrative "stipulation" with the New York State Department of Health, which provided that the city would construct and operate necessary filtration facilities by 2000. It now is expected that the construction of necessary facilities will extend well beyond the year 2000. In this action, the government is seeking an expeditious schedule for the construction of the necessary filtration plant, interim watershed protection measures, and an appropriate penalty. The State of New York joined the U.S. as a co-plaintiff in this action.

TSCA

Edgewater Associates, Inc. (New Jersey): On February 28, 1997, a CACO was signed assessing a penalty of $45,000. The company failed to notify EPA of PCB activities; failed to correctly store PCBs; failed to have an SPCC plan; failed to dispose of PCBs within a year; and failed to compile and maintain PCB annual documents and PCB Annual Reports. As a result of this action, approximately 100,000 gallons of PCB-contaminated fluid were removed from the site, thereby removing a substantial threat to the Hudson River.

Glens Falls Cement Co. (New York): On February 13, 1997, Region 2 issued an administrative CACO in settlement of an action against Glens Falls Cement Co., Inc. The complaint charged the company with violations of TSCA at its Glens Falls, NY, facility for failure to maintain required PCB equipment inspection and maintenance records and annual documents; and failure to mark access to PCB transformers and the transformers themselves. Under the settlement the company will pay a civil penalty of $10,000 and will expend a substantial sum on a SEP involving removal of the four remaining PCB transformers from its facility.

Kenrich Petrochemicals, Inc. (New Jersey): On June 27, 1997, Region 2 issued an administrative complaint against Kenrich Petrochemicals, Inc., of Bayonne, NJ. The complaint alleges that Kenrich failed to comply with TSCA regulations by failing to file premanufacturing notices at least 90 days prior to manufacturing certain chemical substances which did not appear on the TSCA chemical inventory. The complaint seeks a penalty of $111,500. The violations were established through an examination of the company's production records and a review of the TSCA chemical inventory at EPA Headquarters.

Lafayette Paper (New York): On May 5, 1997, Region 2 issued an administrative CACO resolving a case against Lafayette Paper (a limited partnership), Fernard Brule, and BMI, USA for failing to mark and to register transformers with local emergency fire response personnel. In addition to paying a civil penalty of $4,000, Lafayette agreed to a SEP under which it will install a new gas/oil combustion burner with ancillary equipment to replace an oil-fired combustion burner which has been used to heat a 70,000 lb/hr boiler. This SEP will reduce substantially nitrogen oxides, sulfur dioxide, and particulate emissions from the facility.

New Jersey Sports and Exposition Authority and Atlantic City Convention Center Authority (New Jersey): On January 10, 1997, Region 2 issued a CACO in settlement of a TSCA administrative proceeding against the New Jersey Sports and Exposition Authority and the Atlantic City Convention Center Authority. The respondents are the owner and operator of the facility. The complaint alleged that they failed to take the following actions with respect to certain PCB-containing equipment: compile annual documents; conduct quarterly and annual inspections; register with the fire department; mark PCB capacitors; and store PCBs for disposal in an appropriate storage area. Under the settlement, the respondents removed PCBs from the Convention Center and will pay a civil penalty of $98,000.

Puerto Rico Department of Education (Puerto Rico): On October 24, 1996, Region 2 issued a CACO to the Puerto Rico Department of Education. The settlement resolves two administrative complaints issued in 1988 and 1994. In these complaints EPA alleged that the department had violated the TSCA PCB regulations with respect to certain PCB-containing equipment it maintained. The department had failed to affix the PCB mark "ML;" mark the means of access; register the PCBs with the fire department; maintain records of quarterly inspections and maintenance history; compile and maintain annual documents; and dispose of PCBs in a proper manner. Under the settlement the department agreed to pay a civil penalty of $15,000. In addition, the department agreed to perform a SEP valued at more than $95,000. The SEP consisted of the removal of all the PCB transformers at the two locations where the violations occurred, eliminating any potential risk from PCBs at these facilities.

Rhone Poulenc, Inc. (New Jersey): On August 27, 1997, Region 2 issued an administrative consent order resolving Rhone Poulenc's legal liability for certain TSCA violations that occurred at its Dayton, NJ, manufacturing facility. Rhone Poulenc voluntarily reported these self-identified violations to EPA. On several dates, Rhone Poulenc manufactured two new chemicals that did not appear on the TSCA Chemical Inventory. While the company's disclosure did not qualify for a penalty reduction under EPA's December 1995 "Incentives for Self-Policing; Discovery, Disclosure, Correction, and Prevention of Violations" (sometimes referred to as the "audit policy"), EPA reduced the penalty assessed against the company under the terms of the Agency's TSCA §5 Enforcement Response Policy. A case, which normally would have involved the issuance of a $300,000 penalty had the Agency independently discovered the violations, was resolved with a $60,000 civil penalty.

Sinochem USA, Inc. (New York): On June 30, 1997, Region 2 issued a complaint against Sinochem USA, Inc., an importer of chemicals, located in New York City. The complaint proposes a civil penalty of $255,000 for violations of TSCA rules. The complaint alleges that Sinochem failed to file a Partial Updating of the Inventory Data Base Production and Site Report (Form U) for each of 17 listed chemicals it imported in its fiscal year ending August 25, 1994.

Spies Hecker, Inc. (New York): On October 28, 1997, EPA issued an administrative CACO assessing a $200,000 civil penalty for violations of TSCA documented at Spies Hecker's Farmingdale, NY, facility. Spies Hecker is affiliated with Hoechst AG, based in Frankfurt, Germany. The company failed to report numerous imported chemicals in the 1994 Form U.

MULTIMEDIA

Franklin-Burlington Plastics, Inc. (New Jersey): On July 11, 1997, Region 2 issued a consolidated TSCA and EPCRA CACO, assessing a cash penalty of $80,000 against Franklin-Burlington Plastics. The Kearny, NJ, company is a division of Spartech Corporation, a multi-billion dollar company headquartered in St. Louis, MO. The settlement resolves two administrative complaints issued to Franklin-Burlington Plastics. The first complaint alleged failure to submit to EPA, as required by

EPCRA §313, Form Rs for barium compounds, bis (2-ethylhexyl) adipate, bis (2-ethylhexyl) phthalate, lead compounds, butyl benzyl phthalate, and antimony compounds for reporting years 1993-1995. The second complaint cited violations of the TSCA regulations governing use, storage, and disposal of PCBs. The two complaints resulted from a consolidated multimedia inspection of the company's Kearny facility in April 1996.

Rhein Chemie Corp. (New Jersey): On June 27, 1997, as part of a multimedia endeavor, an administrative complaint was filed against Rhein Chemie Corporation of Trenton, NJ, for its violations of TSCA. Rhein Chemie, a subsidiary of Bayer AG, failed to timely file a Notice of Commencement of importation of a new chemical substance. The complaint seeks a penalty of $6,000. The TSCA complaint followed a previous administrative complaint that was filed on May 27, 1997, regarding Rhein Chemie's noncompliance with UST regulations under RCRA. The respondent violated the UST release detection requirements by failing to provide a method of release detection for the UST system located at its facility. The penalty sought in the UST matter is $15,947.

Tishcon, Inc. (New York): On June 26, 1997, Region 2 issued an administrative complaint proposing that a penalty of $15,000 be assessed against the Tishcon Corporation for violations of EPCRA reporting requirements. The complaint alleges that Tishcon failed to submit accurate reports of the amounts of 1,1,1-trichloroethane that were released into the air from its Westbury, NY, facility. The administrative complaint is part of a multimedia enforcement action against the company. Other elements of the multimedia action include administrative complaints issued under CWA based upon the company's failure to comply with reporting requirements of EPA's pretreatment regulations, and a Notice of Violation (NOV) and administrative compliance order issued under CAA. The NOV cited Tishcon for installing air pollution control equipment without first obtaining a permit from the New York DEC. The compliance order dealt with a failure to label products that were manufactured with chlorofluorocarbons (CFCs).

U.S. v. Puerto Rico Electric Power Authority (PREPA) (Puerto Rico): On January 10, 1997, on behalf of the EPA, DOJ lodged a consent decree against PREPA. The consent decree is meant to resolve PREPA's alleged violations of CAA, CWA, UST requirements of RCRA, EPCRA, SPCC requirements of CWA, and notice provisions of CERCLA at each of its five major facilities located across Puerto Rico.

The consent decree requires PREPA to pay $1.5 million in civil penalties, including interest, and additional expenditures to undertake various additional environmental projects in the form of a Land Conservation Acquisition ($3.4 million) and HazMat Training for the local fire department ($100,000). Also, PREPA is required to spend more than $1 million on an environmental review contractor, which is intended to oversee PREPA's compliance with the consent decree and act as a clearinghouse to make documentation more readily available to local communities. In addition to the above-referenced projects, PREPA is required to conduct a major overhaul of its compliance programs in each of the areas where violations were noted. PREPA estimates that these programs will cost in excess of $200 million.

U.S. v. Tropical Fruit, S.E. (Puerto Rico): Tropical Fruit S.E., in Guayanilla, PR, operates a plantation where it grows mangoes, bananas, and other fruits. The firm had been applying pesticides using a high pressure applicator which produces a cloud that sometimes would drift into the adjacent residential community, which is composed of minority and low income residents who sought Region 2 assistance.

Prior to EPA's involvement in this matter, Tropical Fruit violated an administrative order issued by the Puerto Rico Department of Agriculture, as well as a Temporary Restraining Order issued by the Puerto Rico Commonwealth Court.

On December 20, 1996, Region 2 issued an administrative order under CERCLA §106(a) to Tropical Fruit, S.E., and to the three individual partners of that company--Avshalom Lubin, Cesar Otero Acevedo, and Pedro Toledo Gonzalez. The CERCLA order requires that the respondents immediately cease and desist from spraying pesticides, fungicides, and any other materials that contain hazardous substances in such a manner that these substances might drift or otherwise migrate beyond the boundaries of the farm.

The region also issued an administrative complaint for violations of the Worker Protection Standard

(WPS) under FIFRA. The complaint cited Tropical Fruit's failure to post warning signs during and after application, as well as its failure to maintain a decontamination area and a central bulletin board with pesticide safety information.

On March 26, 1997, acting on EPA's behalf, DOJ filed a complaint against Tropical Fruit seeking an injunction requiring the firm and its partners to comply with EPA's CERCLA order and all applicable FIFRA requirements. Three of the pesticides routinely used by Tropical Fruits on its mango trees are not registered for use on mangoes; their use in this manner is in violation of FIFRA. The judicial complaint also sought penalties for violations of the CERCLA order since its issuance.

On March 26, 1997, the court also signed an interim consent order which requires Tropical Fruit to modify its pesticide application procedures to prevent these substances from drifting off of the farm and into the adjacent residential community. The order also requires Tropical Fruit to better protect its workers by providing extensive training, protective clothing, respirators, and decontamination equipment. Subsequently, on May 21, 1997, EPA documented further violations of the CERCLA administrative order and the judicial interim consent order. On August 22, 1997, Tropical Fruit paid $10,000 in stipulated penalties for those violations.

Region 2 also has documented additional FIFRA violations by Tropical Fruit, which included the illegal importation of Cultar, an unregistered pesticide from the Middle East. The region also has documented violations of the RCRA UST regulations. Finally, Region 2 documented violations of CWA §404 and the associated regulations regarding discharge of dredged or fill materials into wetlands. EPA anticipates that all these violations will be the subject of further enforcement action.

CERCLA

Keystone Sanitation Landfill (Pennsylvania): Region 3 has moved aggressively to settle the Superfund liability of more than 700 third- and fourth-party defendants dragged into the Keystone Sanitation Landfill CERCLA cost recovery case. The Keystone litigation and the plight of the third- and fourth-party defendants have received national attention during the current debate over Superfund reform. In the past year, the U.S. has entered into $1.00 *de micromis* settlements with 187 parties, primarily generators of minuscule quantities of municipal solid waste (e.g., pizza and donut shops, parks and campgrounds, duplex owners). On October 22, 1997, the U.S. lodged a $4.25 million consent decree settling the cleanup liability of 376 other third- and fourth-party defendants.

Palmerton Property Owners (Pennsylvania): On April 11, 1997, EPA signed 27 AOCs with residential property owners in Palmerton, PA. The AOCs provide that the residential landowners will receive contribution protection and a covenant not to sue pursuant to CERCLA in return for granting access to their properties to EPA and cooperating with EPA in an ongoing removal action to remove high levels of lead, cadmium, and zinc from their properties.

U.S. v. Chrysler, the State of Delaware, and Knotts, Inc. (Delaware): The February 18, 1997, entry of a consent decree resolved the cost recovery litigation brought against Chrysler Corporation and Knotts, Inc., at the Harvey and Knotts Drum Superfund Site in New Castle County, DE. Chrysler and Knotts, Inc., the only remaining PRPs at the site, are required to pay $1.65 million of the U.S.'s past response costs. This settlement represents approximately 68 percent of the U.S.'s unreimbursed past response costs, excluding oversight costs.

U.S. v. Fike Artel (West Virginia): On July 10, 1997, the Fike Artel RD/RA consent decree (previously entered on February 19, 1997) was amended to add Shell Chemical Company and Shell Oil Company as the 55th settling defendant in this CERCLA civil action. Shell, which disposed of trichloropropane (TCP) waste at the site, will pay $720,000 to be divided equally between the U.S. and West Virginia. Shell also is required to pay the settling defendants who filed the initial contribution action. The amount of Shell's contribution was filed under seal with the court, but the consent decree states that Shell's payment is four times its pro rata share.

U.S. v. Olin Corp. (Virginia): A consent decree entered on July 29, 1997, settled the CERCLA claim against Olin for EPA's response costs at two waste ponds contaminated with mercury from one of Olin's former chlorine plants. Olin is required to reimburse the U.S. $379,000 for its past response costs, and finance and perform remedial work costing an estimated $75 million dollars. Olin also will reimburse the U.S. for future response costs.

CLEAN AIR ACT

Allegheny County Department of Aviation (Pennsylvania): On March 25, 1997, Region 3 ordered the Allegheny County Department to stop demolition activities at the old Allegheny Airport. The demolition and salvage operations at the airport facility resulted in significant disturbance of asbestos materials, violating CAA NESHAP regulations. The salvaging and demolition activities were halted, the facility was cleaned up, existing risks were removed, and a work plan was developed for the remaining demolition work at the site.

Koppers Industries (Pennsylvania): On April 14, 1997, EPA ordered Koppers Industries, Inc., to pay a penalty of $73,550 for CAA violations, which included failing to perform the daily performance monitoring of its coke oven batteries.

U.S. v. Camden Iron and Metal (Pennsylvania): The first judicial action enforcing the CFC "safe disposal" requirements under CAA was settled in September 1997 with the entry of a consent decree against Camden Iron and Metal, a scrap metal recycler. The decree included a $125,000 civil penalty and a SEP valued at $375,000--the nation's first SEP settlement in a CFC case. The SEP required the defendant to establish refrigerant recycling programs in municipalities. These programs will allow the public to properly dispose of refrigerated appliances, thus decreasing the release of ozone depleting chemicals.

U.S. v. Consolidated Rail Corp. (Conrail) (Pennsylvania): On August 20, 1997, a consent decree was entered resolving the 1994 enforcement action against Consolidated Rail Corporation (Conrail) for Asbestos NESHAP violations at a grain elevator owned by Conrail in the Port Richmond section of Philadelphia. The revised consent decree requires that Conrail pay a civil penalty of $389,100 and complete two SEPs. Conrail will spend $230,000 to plant 500 trees within the area affected by the violation and will spend $180,850 to purchase and install the Operation Respond Emergency Information System (OREIS) software at the emergency response centers in Bucks, Chester, Delaware, and Montgomery Counties.

U.S. v. Waste Resource Energy, Inc., Westinghouse Electric Corp., and York Resource Energy Systems (Pennsylvania): On May 8, 1997, a complaint and consent decree were filed simultaneously against Waste Resource Energy, Inc., Westinghouse Electric Corporation, and York Resource Energy Systems for violations at two municipal solid waste incinerators. The consent decree requires that the defendants comply with the emission limits established in their permits and to pay a civil penalty of $50,000 to the U.S. and $50,000 to Pennsylvania. The consent decree also includes several SEPs, including a lead project to be conducted by Westinghouse in Chester, PA, an environmental justice (EJ) community with high blood lead levels in children. Other projects include purchasing and maintaining a street sweeper to clear debris and dust from the incinerator access road; planting trees to provide a sound and visual barrier to the incinerator; and relocating speed bumps on the incinerator access road to better control traffic.

CLEAN WATER ACT

U.S. v. Consolidation Coal Company (Pennsylvania): Region 3 acted to prevent a catastrophic discharge of acid mine drainage from the Fairmont Mine Pool into Buffalo Creek and the Monongahela River. An underground pool of water eight miles long and 870 feet deep formed in abandoned mine workings and threatened to discharge from an unused mine caisson once the pool reached a certain level. The flow from the pool would have been approximately 3,000 gallons per minute and consisted of acid mine drainage and other pollutants. An outbreak of acid mine drainage of this magnitude would have caused severe environmental impacts in the receiving bodies of water, including the destruction of a large stretch of the Monongahela River. On December 26, 1996, EPA ordered Consolidation Coal Company to immediately reduce the pool level, which the company acted upon. On June 6, 1997, Region 3 signed a consent order with Consolidation Coal, which requires the company to monitor and syphon the mine pool and related seeps. Consolidation Coal lowered the mine pool to an elevation where a discharge is no longer imminent.

U.S. v. Erie Coke Corp. (Pennsylvania): The U.S. sued the City of Erie and Erie Coke Corp., a significant industrial user (SIU) of Erie's sewer system. Erie Coke violated national pretreatment categorical standards for iron and steel and the City of Erie local pretreatment limits, discharging very high strength waste to the Erie POTW via the sewer system. The December 18, 1996, consent decree requires Erie Coke to pay a $450,000 cash penalty and to come into compliance by installing pretreatment technology that consistently meets local and national discharge limits. This technology upgrade should be operational in February 1998 at an initial capital cost in excess of $2 million dollars.

U.S. v. Presque Isle Plating (Pennsylvania): Presque Isle Plating, another SIU of Erie's sewer system, violated national pretreatment categorical standards for electroplating point sources and local pretreatment limits. The consent decree, entered on December 18, 1996, requires Presque Isle to pay a $20,000 cash penalty and certify that: 1) it will no longer use certain materials that had caused effluent violations; and 2) it is compliant with all applicable sampling, analysis, and reporting requirements.

U.S. v. Smithfield Foods, Inc., Smithfield Packing, and Gwaltney of Smithfield Ltd. (Virginia): EPA prosecuted Smithfield Foods, Inc., and two of its subsidiaries for approximately 6,982 CWA violations resulting from large quantities of pollutants discharging into the Pagan River in Virginia. High phosphorous levels caused the Pagan River to be closed to shellfish harvesting. Smithfield's violations included discharging excessive amounts of phosphorus; submitting false and inaccurate discharge monitoring reports; and destroying or otherwise failing to maintain required records. On May 30, 1997, the court found Smithfield liable for CWA violations of its federal wastewater discharge permit and ordered Smithfield to pay $12.6 million in penalties. The court also held that the U.S. was not barred from enforcing its federal permit regardless of

the agreements between the Commonwealth of Virginia and Smithfield. The $12.6 million judgment is the highest award resulting from a CWA trial.

EPCRA

Forbes Steel & Wire Corp. (Delaware): Under an August 26, 1997, consent order resolving EPCRA §§312 and 313 violations, Forbes Steel & Wire must pay a $12,250 penalty and complete a SEP at a cost of $256,000. The SEP is expected to eliminate sulfuric acid use by using a non-polluting mechanical method.

Williams Metalfinishing (Pennsylvania): Under a June 18, 1997, consent order resolving EPCRA §313 violations, Williams Metalfinishing must pay an $8,000 penalty and perform a SEP at a cost of $47,500. The SEP, which involves significant modifications to the facility's degreaser system, is expected to result in significant reductions of trichloroethylene (TCE) emissions.

FIFRA

National Chemical Laboratories of PA, Inc. (Pennsylvania): Settlement was reached between EPA and National Chemical Laboratories of PA, Inc., resolving a case involving the sale and distribution of numerous misbranded and/or adulterated pesticide products. The pesticides primarily were sanitizing agents used in the janitorial industry, and many were marketed by supplementally registered distributor companies. The CACO assesses a penalty of $50,000.

RCRA

Colonial Metals and Columbia Reduction (Pennsylvania): EPA issued a CACO on June 26, 1997, to settle two complaints filed against Colonial Metals and Columbia Reduction. The facility was a non-notifier, which was found to be generating a hazardous waste by producing slag from its metal recovery process. The facility failed to determine if the waste was hazardous. The slag failed the toxicity characteristics leaching procedure (TCLP) for cadmium and lead. The facility then shipped the waste unmanifested by an unlicensed transporter to their Columbia Reduction facility for land disposal. The CACO required the facility to submit a closure plan to the Pennsylvania Department of Environment Protection (PA DEP) for closure of the unauthorized land-based pile; complete waste determinations on waste streams produced at the facility; and pay a penalty in the amount of $80,000.

Lucent Technologies, Inc. (Virginia): In a May 19, 1997, CACO, Lucent Technologies, Inc. (successor to respondent American Telephone and Telegraph Company) agreed to pay a $369,000 penalty to resolve RCRA land disposal, permit, recordkeeping, planning, and other violations. Lucent also is required to spend about $85,000 to conduct a pilot study to evaluate facility wastewater recycling.

SDWA

Cyprus Foote Mineral Company and Walmart (Pennsylvania): Since 1960, the abandoned Cyprus Foote facility had been used for lithium processing and for research and development associated with battery manufacturing. Based on site inspections and sampling data, EPA suspected environmental problems due to historic wastewater management at the site. After evaluating the available enforcement options, EPA determined that RCRA §7003 provided the broad-based authority to require Cyprus and Walmart (property owner) to conduct a comprehensive environmental assessment of the property. A RCRA §7003 order was issued in March 1997, and both Cyprus Foote and Walmart subsequently have agreed to conduct the assessment. EPA currently is negotiating the terms of the study with the two companies.

State College Ford (Pennsylvania): For several years, this automobile dealership operated two injection wells that received automotive wastewater from the service bay floor drains. The drains were located directly upgradient from several public and private water supplies. In October 1996, EPA issued an order to State College Ford, requiring the proper closure of the two injection wells, quarterly groundwater monitoring, and payment of a $5,000 penalty. The injection wells subsequently have been closed, the penalty payment received, and subsequent monitoring indicates no evidence of dangerous levels of contaminants in the groundwater.

Virginia Department of Transportation (VDOT) (Virginia): EPA entered into a consent agreement requiring VDOT to assess the compliance status of all their operations and to implement corrective measures as necessary. VDOT maintenance facilities contained 32 shallow injection wells in violation of

the underground injection control (UIC) program groundwater protection requirements. The shallow injection wells involved a network of floor drains in heavy equipment maintenance areas or wash bays, which discharged a variety of automotive service-related and cleaning wastes to on-lot septic systems, seepage pits, or other shallow injection wells. Corrective measures included sealing floor drains, alternative wastewater management, removal of sludge and contaminated soil, and an evaluation of groundwater impacts.

TSCA

Bill Anskis Company, Inc., and the Panther Valley School District (Pennsylvania): On May 13, 1977, Region 3 settled an administrative action against Bill Anskis Company, Inc., and the Panther Valley School District alleging Asbestos NESHAP and TSCA Asbestos Hazard Emergency Response Act (AHERA) violations during renovation work in the school district. The settlement assessed a total penalty of $77,000.

Townsend Properties, Inc., and Halethorpe Extrusions, Inc. (Maryland): On December 27, 1996, EPA signed two CACOS settling a claim against the respondents for TSCA and PCB violations. The respondents failed to comply with PCB storage, labeling, marking, record keeping, and fire registration requirements and were ordered to pay a total of $62,500 in civil penalties.

U.S. v. School District of Philadelphia (Pennsylvania): On June 4, 1997, the U.S. simultaneously filed a complaint and consent decree under TSCA against the School District of Philadelphia for PCB violations. There are 29 transformers located at 12 schools which contain PCBs or are PCB-contaminated. The consent decree seeks to compel cleanup and disposal of the PCBs and requires that the school district comply with the PCB Rule and implement a PCB Management Plan which provides for the repair, inspection, cleanup, and proper disposal of PCB-contaminated materials. The consent decree also requires the school district to remove or upgrade all of the PCB transformers within three years and to submit bi-monthly progress reports to EPA which will enable EPA to monitor the school district's cleanup efforts.

MULTIMEDIA

U.S. v. Quaker State (Pennsylvania): A consent decree was entered on February 11, 1997, settling an action against Quaker State for RCRA and CAA violations. Allegations included operating four surface impoundments without a permit in violation of RCRA; improperly handling listed hazardous wastes; violating the asbestos NESHAP; and releasing excess emissions of hydrogen sulfide into the air in violation of the SIP. Quaker State was ordered to pay a $2.9 million civil penalty and to complete three SEPs. Quaker State also will perform both RCRA and CAA injunctive relief, including closure of the storm water and aeration basins, soil and groundwater sampling, and improvements in the asbestos removal program, at an estimated cost of $4-$4.5 million.

U.S. v. Weirton Steel Corp. (West Virginia): On December 26, 1996, a consent decree was entered for violations of CAA, RCRA, and CWA. This multimedia action resulted in a $1.5 million penalty, $25 million in injunctive relief, and $6.4 million SEPs. The consent decree requires upgrading the wastewater treatment system and implementing procedures to avoid violations of the NPDES permit and CWA. The SEPs involve installing new air pollution control technology on the blast furnace and collecting meteorological data for air quality planning.

U.S. v. Wheeling-Pittsburgh (West Virginia): A consent decree was entered on January 2, 1997, to address a multimedia civil judicial complaint for CWA and RCRA violations. Wheeling-Pittsburgh was ordered to pay a $200,000 penalty for spill violations, provide necessary relief to address spills, and implement spills management.

CERCLA

Aberdeen Pesticide Dumps Site (North Carolina): On September 30, 1997, Region 4 issued a CERCLA §106 RD/RA UAO to Novartis Crop Protection, Inc., and Olin Corporation. Region 4 selected the interim remedy, which consists of the extraction and treatment of contaminated groundwater from the surficial aquifer, in an ROD dated September 16, 1997. The purpose of the interim remedy is to begin reducing the migration of contaminants down gradient and into lower aquifers. Under the UAO, the interim remedy will be implemented while the respondents finalize the feasibility study (under a separate AOC), and EPA selects a final remedy.

Agrico Chemical Co. Site (Florida): On March 10, 1997, an amendment to the existing consent decree for remedial action (RA) between the U.S. and Agrico Chemical Company, a division of Freeport-McMoRan Resource Partners Limited Partnership (Agrico), and Conoco, Inc., was entered. Agrico and Conoco agreed to perform the RA for OU-1 (source control) under the existing consent decree. Under the amendment, these parties agreed to perform the RD/RA and operation and maintenance for OU-2 (groundwater) and to pay all past and future response costs. The remedy involves solidification/ stabilization of contaminated soils, capping, a slurry wall, and natural attenuation of groundwater, along with monitoring and institutional controls. The estimated cost of the remedy for OU-2 is $1.7 million. This amount is in addition to the estimated $10.7 million cost of the remedy for OU-1. In addition to future oversight costs, the settling parties agreed to pay a total of $774,030 for EPA's past response costs.

Ashepoo Phosphate and Fertilizer Works (South Carolina): On September 30, 1997, Region 4 signed an AOC with Conoco and Freeport McMoRan, Inc., for an Engineering Evaluation/Cost Analysis (EE/CA) for a non-time critical removal at the former Ashepoo Fertilizer and Phosphate Works in Charleston, SC. Under this order, Conoco and Freeport McMoRan will perform an investigation to determine the extent of contamination at the former fertilizer plant. The Ashepoo Site consists of about 20 acres on three parcels in the "Neck" area of Charleston. Phosphate fertilizer manufacturing began on the property in 1872 and continued until the mid-1970s. High levels of lead and strongly acidic groundwater in the area are believed to be associated with the fertilizer manufacturing process.

Beaunit Circular Knit & Dyeing Superfund Site (South Carolina): On December 18, 1996, the consent decree for RD/RA at the Beaunit Circular Knit & Dyeing Superfund Site, Fountain Inn, SC, was entered. Five PRPs, former and current owner/operators, executed the consent decree, which provides for recovery of 100 percent of past and future costs. The site consists of an abandoned wastewater treatment area and lagoon. EPA placed the site on the NPL in February 1990 due to soil, sediment, and groundwater contamination. Five PRPs completed an RI/FS for the site in September 1994. On November 7, 1994, EPA issued the proposed plan and announced the following remedy: natural attenuation of groundwater; grading, drainage control and capping of the surface soils; monitoring of groundwater, surface water, and associated sediments; and land use and deed restrictions.

Bessemer Drum Site (Alabama): On February 18, 1997, a CERCLA §107 Cost Recovery consent decree was entered in connection with the Bessemer Drum Site in Bessemer, AL. The consent decree provides for payment to the U.S. of $400,000 out of the $500,000 in response costs that had been incurred by EPA at the site. A large number of drums and other containers of various hazardous substances, many of them highly flammable, were discovered in a warehouse in Bessemer, AL. The materials were abandoned in the poorly ventilated warehouse, posing a high risk of fire or explosion. Some of the drums had been leaking, and were stacked and stored improperly.

Chem-4 Site (Alabama): On July 21, 1997, a settlement was approved relating to a proof of claim filed by the U.S. in the Wesley Industries Chapter 7 bankruptcy case for approximately $750,000 in response costs incurred by EPA at the Chem-4 site. Wesley was an owner/operator of the site. Under the terms of the settlement, Region 4's claim is allowed in full with $50,000 to be given administrative priority status.

Chevron Chemical Company Site (Florida): On July 22, 1997, the acting director for the Waste Management Division signed a UAO for RD/RA, operation and maintenance, and performance monitoring work at the company's 4.39 acre former pesticide formulation/blending facility. Between 1978 and 1994, Central Florida Mack Truck Company owned and operated the site as a truck servicing facility. Investigations of the site conducted during the 1980s and 1990s by Chevron, its consultants, and Region 4 disclosed on-site soil and groundwater contamination involving pesticides, organics, and metals at highly elevated levels. Pursuant to an AOC executed on May 15, 1990, and a removal action conducted during 1991 and 1992, Chevron removed site structures, remediated groundwater, and removed a large volume of non-hazardous and hazardous soils off-site and replaced them with clean fill material. The main components of the remedy selected in the ROD prepared during 1993-1995 to address groundwater contamination include: natural attenuation, groundwater monitoring, and a contingency plan that includes the installation of a subsurface filter wall if natural attenuation is unsuccessful. Air stripping, hydraulic gradient control, or additional source removal will be implemented if necessary.

Ciba-Geigy Corp. (Alabama): On October 11, 1996, the consent decree for RD/RA at OU-3 was entered. The Superfund site has been divided into four operable units. The OU-3 addresses wetland areas. Consent decrees for RD/RA for Operable Units 1, 2, and 4 already have been entered with the court. Instead of issuing four separate bills to recover EPA response costs, the four consent decrees provide for recovery of costs by sending one bill to Ciba-Geigy. OU-3 is the final Superfund OU to be addressed at this site.

Davie Landfill Superfund Site (Florida): On January 6, 1997, a CERCLA §107 consent decree was entered, settling the case of *U.S. v. Broward County, FL.* Pursuant to the terms of the consent decree, the U.S. has recovered $66,368 in past response costs incurred at the site. Further, the U.S. will recover future remedial and oversight costs at the site subject to the following caps: $65,000 for FY95 and $25,000 for FY96 and subsequent years.

The site was used as a disposal for sludge from a municipal wastewater treatment plant and other wastes. On September 8, 1983, the site was placed on the NPL due to concerns regarding groundwater contamination. High levels of cyanides and sulfides were found in the sludge lagoon and benzene and vinyl chloride were found in the groundwater. Two RODs have been issued at this site. The ROD issued on September 30, 1985, required remediation of the sludge lagoon portion of the site (OU-1). The ROD issued on August 11, 1994, required remediation of the groundwater portion of the site (OU-2). A UAO for implementation of this remedy was entered on October 5, 1994; Broward County has been complying with this order.

General Electric (GE)/Shepherd Farm (North Carolina): On December 2, 1996, a consent decree for RD/RA and past response costs was entered between the U.S. and GE. The agreement includes the commitment by GE to pay $1,028,776 in past response costs and conduct the RD/RA set out in the ROD signed on September 29, 1995. An early draft of the orphan share policy, part of EPA's Superfund administrative reforms, was utilized to reduce the past cost amount by $204,250 based on the orphan status of an owner/operator. The site consists of two non-contiguous parcels with contaminants such as PCBs, heavy metals, and volatile organic compounds. The response action will involve excavation and capping of contaminated soil areas and groundwater treatment.

Harris Corp. Site (Florida): On January 27, 1997, a consent decree was entered between the U.S. and Harris Corporation regarding contaminated groundwater. The consent decree settled enforcement activity on the final OU-2 of the Harris Corporation/Palm Bay Facility, CERCLA Superfund Site, Palm Bay, Brevard County, FL. Harris manufactures electronic devices and components, and communication and information processing equipment on the site. The consent decree provides for the payment of $112,000 for past costs incurred by the U.S. at the site. Harris Corporation will fully pay most future costs, but Harris's obligation to pay certain specific future costs associated with oversight of the work will be limited to a total of $200,000. The conclusion of this operable unit will end regional involvement at this site, which began in 1981.

Helena Chemical Company (Florida): On December 10, 1996, Region 4 issued a CERCLA §106(a) UAO for RD/RA to the Helena Chemical Company. Helena was involved in formulating pesticides, herbicides, fungicides, and other chemical products

at the site. From 1988 thru 1990, the region investigated the site and found pesticide contamination in soil, sediments, and the surficial groundwater aquifer. Under the RD/RA plan, Helena is to include plans and schedules for implementation of all remedial design and pre-design tasks identified in the Statement Of Work (SOW). The administrative order directs Helena to perform bioremediation of surface soils and extraction, treatment, and disposal of surficial groundwater to remediate the site. The remedy is estimated to cost $2.5 million.

Hinson Superfund Site (South Carolina): On September 30, 1997, a consent decree was entered and signed by W.R. Grace and Company and Collins Aikman for the recovery of $350,000 in past costs at the Hinson Chemical Superfund Site. This is the second and final settlement in this past cost recovery action. The first settlement was embodied in a consent decree that was entered in September 1996. In total, EPA has recovered approximately $1.6 million dollars in past costs. All the settling defendants are generators that contributed hazardous waste to the site.

The site was a former recycling and storage facility during the mid-1970s. In November 1988, Region 4 excavated and disposed of over 200 burned drums. Composite samples from the excavated drums revealed contamination from paint waste and numerous volatiles, including benzene, toluene, and tetrachloroethylene. Based on these findings, Region 4 selected and installed a vapor extraction system to remove the contamination from the soil. The system operated for approximately two years.

Interstate Lead Company (ILCO) Site (Alabama): On April 22, 1997, the U.S. entered a consent decree for RD/RA for the Interstate Lead Company (ILCO) site in Leeds, AL. Under the terms of the consent decree, 20 settling defendants, who are collectively responsible for approximately 6 percent of the total waste at the site, will conduct RD/RA for the entire site (including all seven satellite sites); will reimburse the U.S. for $1,823,644 of $16,683,773 in past response costs; and will reimburse the U.S. for future oversight costs related to the consent decree in excess of $300,000. The estimated cost of implementing the selected remedy is $59,440,500. The region, with Headquarters concurrence, has agreed to compensate the settling defendants by giving them a credit of $14,860,125 against outstanding past costs, which represents 25 percent of the estimated future cleanup costs. The settling defendants have agreed to pay the balance of outstanding past costs ($1,823,648) incurred in connection with the site. Proceeds from *de minimis* settlements will be split 50-50 between EPA and the settling defendants, with EPA's share to be applied against outstanding past costs. The consent decree also provides that additional PRPs may join the settlement for a limited period of time.

Lee's Lane Landfill (Kentucky): On March 24, 1997, a CERCLA §107 consent decree was entered for response costs whereby the remaining nonsettling defendants, Ben B. Hardy, J H Realty, and the Hofgesang Foundation, Inc., have agreed to reimburse the U.S. $2,654,634 for costs incurred in conducting a response action completed in 1987. The U.S. already entered into settlements with other parties in connection with the site several years ago. Pursuant to the settlements, which were embodied in two consent decrees, the other parties have reimbursed the U.S. a total of $3,101,230 for costs incurred during the response action. To satisfy the judgment, the Foundation shall pay the U.S. 90 percent of the net liquidated value of the assets of the Foundation as set forth in the consent decree.

Olin Corp. (Alabama): On June 3, 1997, a CERCLA §§106 and 107 consent decree was entered for OU-1. The U.S. had appealed the lower court's decision to reject the proposed settlement part and parcel with the court's dismissal of the U.S.'s complaint "with prejudice." In the Olin decision, the Eleventh Circuit Court of Appeals held that, as applied, CERCLA constituted a permissible exercise of congressional authority, and that congressional intent favored a retroactive application of CERCLA's cleanup and liability provisions.

Paramour Fertilizer Site (Georgia): On September 30, 1997, Region 4 entered into a cost recovery agreement for reimbursement of $788,447 of approximately $1.5 million of removal response costs incurred by the region at the Paramour Fertilizer Superfund Site in Tifton, GA, from two PRPs who arranged for the disposal of waste nitric acid at the site. The amount recovered represents the full amount allocated by the region for cleanup of the nitric acid at the site.

Rutledge Property Superfund Site (South Carolina): On March 12, 1997, Region 4 approved a prospective purchaser agreement between the region and Cherry

Street Associates. The agreement will allow the purchase and development of a portion of the Rutledge Property Superfund Site in Rock Hill, SC, without incurring liability under CERCLA. Rock Hill Chemical Company operated a solvent recovery facility at the Rutledge Property site from 1960 to 1965. Operations ceased in 1965 when a fire destroyed the facility. A portion of this property subsequently was purchased by First Federal Savings Bank in 1972. First Federal discovered distillation still bottoms, metal drums, and other hazardous substances buried beneath a portion of the property. First Federal conducted a removal action on its property which was completed in November 1986. In December 1993, the region entered into an AOC with First Union, successor in interest to First Federal. First Union paid EPA $150,000 as part of that settlement. This prospective purchaser agreement will allow the sale and development of the property that was the subject of that settlement.

Taylor Road Landfill Site (Florida): Region 4 entered into the second of two successive AOCs with 54.9 percent of the 71 PRPs determined to be eligible for *de minimis* settlement at this site for an aggregate recovery of $343,634 of the total response costs anticipated to be incurred at the site. In keeping with the Agency's *de micromis* policy as well as its *de minimis* policy, the region determined that each of these PRPs sent less than 1 percent, but more than 0.02 percent, of the waste identified as containing hazardous substances that was land-filled at the site.

Hillsborough County's Taylor Road Landfill opened in 1976 and closed in March 1980 when it was filled to capacity. In October 1983, the site became one of the first to be listed on the NPL. A RCRA consent decree has been negotiated with all the *non-de minimis* PRPs.

T. H. Agriculture and Nutrition Site (Georgia): On May 2, 1997, Region 4 referred a CERCLA RD/RA consent decree to DOJ for lodging and entry in connection with OU-2 of the T.H. Agriculture and Nutrition Site in Albany, GA. The consent decree has been signed by four PRPs, including Air Products and Chemicals, Inc., Boise Cascade Corporation, and Gold Kist, Inc. (the successors to three former owner/operators of an agricultural chemical plant at the site). The consent decree also has been signed by current owner Larry Jones, who operates a welding supply store at the site. The consent decree provides for Air Products, Boise Cascade, and Gold Kist to conduct the RD/RA and pay EPA's oversight costs in overseeing implementation of the RD/RA. The consent decree also requires Larry Jones to provide access and implement institutional controls required under the ROD. The remedy for OU-2, estimated to cost $2.5 million, is to excavate and treat soils which are contaminated above cleanup levels identified in the ROD. Contaminated groundwater at the site and contaminated soil at an adjacent parcel at the site are addressed under OU-1, pursuant to a UAO issued to PRPs connected with the adjacent property.

Townsend Saw Chain Company Site (South Carolina): On April 14, 1997, a UAO for RD/RA was issued to Textron, Inc., for the Townsend Saw Chain Site. An interim remedial action UAO was issued in May 1994. The order requires the reimbursement of all response costs. The site was used most recently for the manufacturing and assembly of saw chains with wastewater and other hazardous substances used and disposed of onsite. Wastes included chromium, cadmium, cyanide, nitrite and nitrite salts, and volatile organic compounds (VOCs). In addition to site monitoring, the final remedy includes continued operation of a five well pump-and-treat system, as well as the use of an innovative, emerging technology (in situ chromium reduction) for permanently treating chromium-bearing soils and groundwater onsite.

CLEAN AIR ACT

E.I. Du Pont de Nemours and Company (Kentucky): On September 2, 1997, the U.S. filed a civil action against E.I. Du Pont de Nemours and Company (DuPont) for its violation of CAA §112(r) and for its related violations of the reporting requirements of CERCLA and EPCRA. The violations arose out of a catastrophic release of oleum (fuming sulfuric acid) at DuPont's sulfuric acid production plant near Wurtland, KY, which resulted in the evacuation of the surrounding community, personal injuries, and property damage. Region 4 contends that DuPont violated the general duty clause (GDC) by using wholly inappropriate piping material (cast iron) for oleum service.

The complaint seeks penalties of $25,000 for each day of each violation and represents the Agency's first judicial enforcement action for violations of CAA's GDC. The GDC requires owners and operators of stationary sources producing, processing, handling, or storing hazardous substances

to design and maintain a safe facility. The GDC was enacted as part of CAA Amendments of 1990 and is an important measure designed to prevent and mitigate the consequences to the public of potentially catastrophic releases of harmful chemicals into the air.

NHP Management Company (Florida): Region 4 has referred a civil judicial enforcement action to DOJ on NHP Management Company, Inc. (NHP), the second largest multi-family apartment property management company in the U.S., for violations of CAA §608. Section 608 regulates the use and disposal of CFCs and hydrochlorofluorocarbons (HCFCs). Section 114 information request letters and responses revealed violations of CFC regulations concerning the maintenance and repair of air conditioners. The violations included: failure to use a certified technician for service or repair; failure to use recovery equipment when performing major repairs; and failure to inform a refrigerant supplier of change of employment status of a certified technician.

Powell Duffryn Terminals (Georgia): Region 4 has referred a civil judicial enforcement action to DOJ against Powell Duffryn Terminals, Inc., for violations of the GDC under CAA §112(r). An industrial fire at the Savannah, GA, facility released sodium hydrogen sulfide gas, causing the evacuation of citizens from their homes. The release was the result of several factors, including the improper storage of sodium bisulfide, inadequate design of vapor recovery systems for several turpentine tanks, and a faulty fire protection system. This case has national/regional significance as well as precedential nature because the basis of the enforcement action is CAA §112(r).

CLEAN WATER ACT

Anderson Columbia, Inc. (Florida): Region 4 issued its first administrative penalty order (APO) for violations of a Multi-Sector Storm Water General Permit on August 26, 1997. The APO cited the facility in Baghdad, FL, for unpermitted discharges; failing to comply with conditions of the Storm Water Pollution Prevention Plan in the NPDES permit; and failing to comply with monitoring requirements of the storm water NPDES permit.

Crook Creek Farms, Inc., City of Destin, and the Niceville, Valparaiso, Okaloosa County Regional Sewer Board, Inc. (NVOCRSB) (Florida): As a result of a citizen complaint, APOs were issued to Cook Creek Farms, Inc., a land application site operating company, and two of the municipalities that haul their biosolids (the City of Destin and the NVOCRSB) to the land application site for disposal. Each facility was cited for a variety of 40 CFR 503 violations, including vector/pathogen attraction violations, operational standards, and record keeping. Penalties assessed ranged from $6,000-$16,466.

Wagner Creek Watershed (Florida): The Miami River Coordinating Committee was formed by the Governor of Florida for the purpose of improving the water quality of the Miami River. As a part of the committee, the Storm Water Subcommittee, of which Region 4 is a part, was formed to concentrate on contamination in the Wagner Creek watershed since Wagner Creek is one of Florida's most polluted creeks. In conjunction with other members of the Subcommittee, 87 storm water inspections were conducted during the week of April 21, 1997, at metal recyclers along the Miami River, the "produce area" of the upper Wagner Creek watershed, and sub-basin No. 5 of upper Wagner Creek. As a result, 17 APOs were issued primarily to pallet companies and metal recyclers along the Miami River. The APOs cited illegal discharges without an NPDES storm water permit. All 17 APOs were issued on September 10, 1997, and assessed penalties ranging from $4,000-$56,665.

EPCRA

State Industries (Tennessee): Region 4 settled a multi-violation case with State Industries, a manufacturer of water heaters located near Nashville, TN. After gaining knowledge of a sulfuric acid spill, Region 4 inspected the facility. Once a series of show-cause meetings was held with State Industries, the region filed an administrative complaint in this matter alleging 62 counts of violations of EPCRA §§311, 312, and 313 and one count of violations of CERCLA §103, with a proposed penalty of $701,556. The case was settled with a reduced penalty and a SEP involving the purchase of over $300,000 of emergency response equipment for the local area.

RCRA

Eagle Aviation (South Carolina): A complaint and compliance order was filed on September 30, 1997, citing Eagle Aviation, located in West Columbia, SC, for violations of RCRA. Among other violations, Eagle Aviation was treating and storing hazardous waste in tanks without a permit or interim status. Eagle Aviation is ordered to pay a civil penalty of $380,050 for the violations and is required to submit a closure plan for the tanks utilized for the treatment and storage of hazardous waste. Additionally, Eagle Aviation is required to submit a waste determination for the air filter waste stream; a plan for the implementation and maintenance of areas where hazardous waste is managed, containerized, and stored; and a plan for the implementation of a hazardous waste management training program for facility personnel.

Exxon Company USA, Allied Terminals, Inc. (South Carolina): The first RCRA voluntary agreement to study the extent of contamination at a facility was signed in September 1997 between Exxon Company USA, Allied Terminals, Inc., EPA, and the South Carolina Department of Health and Environmental Control (SCDHEC). Allied Terminals, the current owner of the facility in Charleston, SC, and Exxon, the former owner, have agreed to study the extent of contamination at the site and perform corrective action, if necessary. This facility began operations in the late 1800's as a fuel storage facility, was modified to a serve as a petroleum refinery, and currently operates as a bulk petroleum distribution terminal and asphalt plant. It is believed that leaded gasoline storage tank bottoms and asphalt were stored/disposed of at the facility prior to the effective date of RCRA. This effort was undertaken to maximize the available resources as part of the Charleston/North Charleston Community Based Environmental Program (CBEP).

Leading Edge Aircraft Painting, Inc. (Mississippi): Region 4 filed a complaint and compliance order on September 27, 1997, against Leading Edge Aircraft Painting, Inc., of Greenville, MS, with a proposed civil penalty of $128,810. The region alleged that Leading Edge was operating a storage facility without a permit; failed to make a hazardous waste determination on numerous containers; failed to keep containers closed; failed to mark a date of accumulation on containers; failed to maintain the facility to minimize any unplanned releases of hazardous waste; and accumulated in excess of 55-gallons of hazardous waste for a satellite accumulation area. The compliant requires Leading Edge to make hazardous waste determinations of its waste streams, and submit relevant plans and permit applications.

LWD, Inc. (Kentucky): In February 1997, the region issued a RCRA §3013 Order to LWD Inc., in Calvert City, KY. This facility is an unpermitted, commercial incinerator of hazardous waste. In conjunction with the permitting process, Region 4 and the Commonwealth of Kentucky requested that the facility submit a trial burn plan, which when implemented would support a site-specific risk assessment. The site-specific risk assessment will be used to define the emission limits to be implemented in the permit. This approach is consistent with EPA's Hazardous Waste Combustion Strategy. Prior to issuance of the order, LWD failed to submit a requested trial burn plan. The order required LWD to submit and implement an EPA-approved trial burn plan, which now has been submitted and currently is under review by the region.

Safety-Kleen Corp. (Kentucky): Region 4 and Safety-Kleen Corporation entered into a CACO with a civil penalty of $62,650. The original complaint, filed on September 30, 1996, cited the Kentucky Safety-Kleen facility for violations of RCRA. Specifically, Safety-Kleen was operating three hazardous waste treatment units without a permit. These units were overlooked in previous inspections by the state and were not discovered until 1995 during an EPA-Kentucky inspection. This settlement was very important to the national RCRA program because it solidified the controversial issue of defining treatment of hazardous waste. With this CACO, Region 4 has provided the legal support for definition of treatment as cited in the RCRA regulations.

Somerset Refinery, Inc. (Kentucky): On July 28, 1997, DOJ filed a consent decree against Somerset Refinery, Inc. (Somerset) in Somerset, KY. With regard to RCRA Subtitle C, Region 4 claimed that Somerset operated three hazardous waste management units without a permit or interim status. In addition, Region 4 asserted that the facility was subject to RCRA §3008(h). In the consent decree, Somerset agreed to pay a penalty of $200,000 and to perform a SEP by removing 50 abandoned USTs from "Mom and Pop" owned gasoline stations. Also,

the consent decree requires Somerset to close the RCRA regulated units pursuant to approved closure plans, implement a groundwater monitoring program, and conduct any corrective action needed at the site.

Southland Oil Company (Mississippi): Consent agreements were filed on May 22, 1997, for two RCRA administrative cases involving the illegal disposal of hazardous waste at two Southland refineries in Mississippi. Southland Oil Company illegally disposed of hazardous waste in surface impoundments at its Lumberton and Sandersville facilities. Southland was ordered to pay a combined civil penalty of $338,300 for the violations at the two facilities ($169,150 per facility), and is required to close the impoundments pursuant to RCRA.

TSCA

Southern Water Treatment, Inc. (South Carolina): A TSCA civil complaint for Southern Water Treatment, Inc., was filed on September 30, 1997. The complaint alleges violations of the premanufacturing notice and inventory update rule requirements. Consistent with the §5/8 Enforcement Response Policy, the total penalty listed in the complaint is $1,207,000. However, based on financial information and use of the Ability to Pay model, the proposed penalty was adjusted in the complaint to $20,000.

MULTIMEDIA

Trinity American Corp. (North Carolina): The Trinity American Corporation, located in High Point, NC, is a foam manufacturing facility for the furniture industry. Region 4 issued an emergency administrative order under SDWA §1431 to the facility on July 1, 1997. The order was issued to the facility for contamination of groundwater causing contamination of private drinking water wells in the area near the facility. The order requires the sampling of all private drinking water wells within a 3/4 mile radius south and west of the facility property. Trinity has filed for a stay of the order with the Fourth Circuit Court of Appeals. Trinity did agree to provide bottled water to a family whose well showed contamination above the MCL for one regulated contaminant. The first round of quarterly sampling of private drinking water wells is scheduled to begin on November 17, 1997.

In addition, in accordance with the CAA §303, Region 4 issued an Imminent and Substantial Endangerment Administrative Order on October 3, 1997, to prohibit manufacturing operations at Trinity until EPA could determine that continued operations would not present an imminent and substantial endangerment to the health and welfare of nearby residents. Trinity American Corporation owns and operates Trinity Foam, which is located in the Glenola Community of Randolph County. Trinity Fibers of Carolina, Inc., owns and operates the fiber pad manufacturing plant adjacent to the foam plant. The manufacturing process at both facilities has resulted in the release of hazardous air pollutants and toxic and extremely hazardous substances including toluene diisocyanate, methylene chloride, acrylamide, formaldehyde, benzene, and other unknown VOCs and particulate matter (PM).

CERCLA

Arcanum Iron and Metal Site (Ohio): The Arcanum Iron and Metal Site located in Arcanum, OH, functioned primarily as a battery breaking and lead extraction facility. An ROD was issued at a cost of approximately $19 million dollars. An ROD amendment, finalized on June 18, 1997, was implemented pursuant to Superfund Administrative Reforms and significantly reduced the estimated cleanup costs at the site to approximately $5.8 million.

Under another Superfund administrative reform, EPA offered a reduction of past costs and future oversight through an orphan share reduction of $1.6 million. Several PRPs at the site are insolvent or defunct, and hence provided site eligibility for this Superfund administrative reform. Negotiations should conclude shortly and have been enhanced by the availability of the orphan share compensation.

Circle Smelting Corp. Site (Illinois): EPA conducted one of the first EE/CA under the Superfund Accelerated Cleanup Model (SACM) program in Region 5 at the Circle Smelting Corporation Site located in Beckemeyer, IL. The EE/CA evaluated non-time critical removal approaches to address lead contaminated smelter waste materials for fast-track implementation. Historical practices at the site resulted in transport of the contaminated slag materials from the site to community areas for road and sidewalk bases and fill for construction activities. Slag also was transported offsite into nearby streams and wetlands.

Pursuant to an AOC, the PRP has agreed to conduct approximately $11 million of removal activities and to pay past costs and future EPA oversight costs. The site cleanup objectives include the identification and removal of soils and sediments with lead concentrations above the respective action levels from the residential areas, drainage ways and pond bottom areas, and the consolidation of excavated materials under a protective cap. In addition, the work performed under the AOC will provided for future redevelopment of an area of the site, furthering the goals of the Brownfields Initiative.

Union Carbide Marietta Site (Ohio): Region 5 approved the Union Carbide Marietta Plant Site Action Plan in November 1997. Originally scheduled for a seven-year cleanup time line, the site schedule now is targeted for completion in five years at a cost of $50 million dollars. The site is located in a highly industrialized area in Warren Township, OH, near the Ohio River. Contamination present on site includes soils containing dioxins and VOCs, as well as the presence of VOCs in groundwater.

The response actions undertaken at the site will be conducted pursuant to an AOC. This non-time critical removal action consists of the excavation and consolidation of dioxin-contaminated soils; the excavation and consolidation or in situ soil vapor extraction of VOC-contaminated soils; the construction of a hydraulic barrier around the waste area considered the primary source of groundwater contamination; the excavation and on-site consolidation of contaminated sediments located in a creek, as well as additional protective measures implementing the Site Action Plan. The settlement also provides for the payment of all EPA past costs, payment of $100,000 per year for EPA oversight contractor costs, and payment of other future costs incurred by EPA. The remedy undertaken pursuant to the AOC will provide for future redevelopment of a portion of the site, furthering the goals articulated in the Brownfield initiative.

CLEAN AIR ACT

LTV Steel Company (Illinois): On April 29, 1997, the United States district court for the Northern District of Illinois approved a consent decree signed by LTV Steel Company, Inc. (LTV) to resolve alleged CAA violations. Specifically, LTV's Chicago facility violated a permit to construct and operate a coke battery and violated the NESHAP applicable to emissions from coke batteries. According to the terms of the consent decree, LTV agreed to pay a civil penalty of $1.25 million for its permit and NESHAP violations. Because LTV had completed a coke battery rebuild, thereby eliminating the source of its excess air emissions, no injunctive relief was required to resolve the violations. As part of this settlement, LTV agreed to a SEP to install jumper pipes on the No. 2 coke oven battery. This

will allow for emission control with a self-contained battery coke oven gas collection air emissions, including approximately 45 tons per year of VOCs. This SEP is particularly important given LTV's location on the southeast side of Chicago, an EJ area of concern to Region 5. LTV will spend approximately $1.8 million to install this project.

Shell Oil Company and Shell Wood River Refining (Illinois): On June 20, 1997, the United States filed a complaint and lodged with the U.S. District Court for the Southern District of Illinois a consent decree resolving a CAA civil action alleging violations of the benzene waste NESHAP. Under the terms of the consent decree, Shell Oil Company and Shell Wood River Refining Company (Shell) will install an enhanced biodegradation unit to control benzene emissions from the cooling tower makeup water. Shell has estimated the control device will cost approximately $8 million. In addition, in accordance with the NESHAP, Shell will document its mitigation of lost benzene emissions for a total mitigation goal of 123 mg, or submit a plan to mitigate the lost of benzene emissions. Shell must also pay a civil penalty of $678,000.

CLEAN WATER ACT

Hudson Foods, Inc. (Indiana): This case involved a large Hudson Foods poultry processing plant located in Corydon, IN. Region 5 referred this matter to DOJ, which filed suit against Hudson Foods seeking to make federally enforceable its commitment resulting from previous administrative orders, to support the improvements to the Corydon POTW and to recover a penalty for the long period of time during which Hudson Foods caused the downstream POTW to violate its ammonia limits. After significant litigation, Hudson Foods agreed in a consent decree entered with the court on January 6, 1997, to pay a $501,000 cash penalty and to do SEPs costing no less than $300,000 (after tax value). The SEPs that Hudson Foods agreed to perform are unique in that they involved controls that had not been used previously in the poultry processing industry.

Hudson Foods spent approximately four times as much on these screen systems as it was required to spend under the consent decree. Hudson Foods installed ten secondary screens at its plants throughout the country, including three at the Corydon, IN, plant, and will install one more by February 1998. These screens filter out solid pollutants from the waste stream that is sent to the POTW, reducing the ammonia loading to the POTW. Each of these screens costs between $90,000 and $100,000, making this part of the SEP worth over $1 million.

This technology is important because the poultry processing industry has a history of overloading the treatment plants to which they discharge. If Hudson finds this technology to be cost effective, Hudson's publication of this finding will help other poultry processors effectively pretreat their wastewater, making it much less likely that toxic ammonia will be discharged to the waters of the U.S. This technology also may be effective in other industries.

London Aggregate (Michigan): London Aggregate (LA) operates a limestone, sand, and clay quarry in Monroe County, MI. It was classified as a minor discharger, and the load limits for dissolved solids and dissolved oxygen reflected that classification. However, LA expanded its operation, causing significant violations of both dissolved solids and dissolved oxygen and apparent corresponding impacts on the biota in the receiving stream. A federal administrative order was issued; to date, LA chose to address only a portion of the actions required under the order.

EPCRA

B.P. Chemicals, Inc. (Ohio): On February 3, 1997, EPA filed a CACO to settle the administrative complaint against B.P. Chemicals, Inc., of Lima, OH. The complaint that was filed on April 28, 1995, alleged violations of both EPCRA §304 and CERCLA §103. On April 19, 1992, the facility did not notify the National Response Center or the Ohio SERC until 13 hours after it had knowledge that the release exceeded the reportable quantity (RQ). Additionally, the facility failed to provide a written follow-up report as soon as practicable to the SERC and the LEPC. The facility provided this report 19 days after the release. During the settlement discussions, B.P. Chemicals advised the EPA they wanted to perform a SEP. This project is to install three emergency warning sirens around the facility.

Union Tank Car Company (Indiana): Region 5 settled an enforcement action against Union Tank Car Company of East Chicago, IN, for failing to timely file 26 Form Rs. Settlement terms included a

SEP that reduced the use and release of toxic chemicals by 120,900 pounds per year. As part of the SEP, Union Tank Car agreed to convert from solvent-based painting operations to water based.

United Dominican Industries (Ohio): Region 5 settled an enforcement action for failing to timely file eight Form Rs against United Dominican Industries of Vanhert, OH. Settlement terms included a SEP that reduced the use and release of toxic chemicals by 126,200 pounds per year. As part of the SEP, Union Dominican Industries agreed to converted from using a solvent-based adhesive to a water-based adhesive.

FIFRA

3M (Minnesota): On March 13, 1997, Region 5 issued a "Stop Sale, Use, or Removal Order," to Minnesota Mining and Manufacturing Co. (3M), St. Paul, Minnesota, to immediately stop selling and distributing several unregistered kitchen products with pesticidal claims. The products, which were sold nationwide, are: O-Cel-O Sponge, O-Cel-O Sponge Scrubber KITCHEN, O-Cel-O Sponge Scrubber COOKWARE, and other 3M products. All of the products made the following claims on their labels: "Kills Germs! Like Salmonella & E. coli in the Sponge," "Kills germs that cause food borne illnesses," and "Kills Salmonella, E. coli and Staph Bacteria in the sponge."

On March 18, 1997, Region 5 issued an "Amendment to Stop Sale, Use or Removal Order to Allow Sale Under Certain Terms and Conditions." This amended order allowed 3M to distribute the violative product for 90 days if placards were placed in stores next to the O-Cel-O sponges that read: "Does not disinfect or kill germs on surfaces. Use standard precautions to prevent transmission of food borne illnesses like salmonella, E. Coli, and staph," and, if all advertising making the germ-killing claims referenced above were withdrawn. 3M also required operators of their customer service information line to inform consumers about O-Cel-O products that the sponges do not disinfect or kill germs on surfaces and to use standard sanitary precautions in the kitchen.

A complaint and CACO were filed simultaneously by Region 5 on September 29, 1997. The actions resolved the violations discovered in March 1997 concerning 3M's sale of unregistered products. 3M agreed to pay $238,000 and has also spent at least $300,000 in corrective advertising.

EKCO Housewares, Inc. (Illinois): On April 28, 1997, Region 5 issued a Stop Sale and Removal Order to EKCO Housewares, Inc., of Franklin Park, Illinois, stopping the sale and distribution of EKCO's entire line of "Germ Away Antibacterial" products, including kitchen sponges, brushes and cutting boards. The products all made pesticidal claims like "antibacterials" and "prevents germs." On May 6, 1997, an amended order was issued to EKCO allowing the distribution of violative product that was stickered with language explaining the products do not disinfect surfaces and warning consumers to use standard precautions to prevent the transmission of food-borne illnesses. An administrative complaint and CACO were simultaneously filed on May 28, 1997, in which EKCO agreed to pay a $100,000 penalty.

RCRA

Lafarge Corporation (Ohio): On February 18, 1997, a CA/FO was filed with the regional hearing clerk for Lafarge Corporation (Lafarge), located in Paulding, OH. The CA/FO resolves a September 27, 1993, complaint and proposed compliance order that alleged violations of the Standards for Hazardous Waste Burned in Boilers and Industrial Furnaces (the boilers and industrial furnaces [BIF] rule). The CA/FO requires Lafarge to pay a civil penalty in the amount of $69,400 and to include malfunctions of its BIF monitoring and recording systems as a parameter to cause an automatic waste feed cutoff for Kilns 1 and 2 when hazardous waste is in the system. The CA/FO also required Lafarge to perform a SEP. The SEP, which was implemented in 1995, involved the construction and operation of a cement kiln dust (CKD) recovery system. The recovery system recycles CKD back into each of Lafarge's two kilns via a dust scoop system. Recycling the CKD reduces the amount of waste that is land-filled by approximately 3,000 tons/month and reduces the fugitive emissions by an estimated 8,795 pounds/year.

Reilly Industries, Inc. (Indiana): On May 29, 1997, Region 5 executed a CA/FO resolving RCRA claims against Reilly Industries, Inc., for violations at the company's facility in Indianapolis, IN. Pursuant to the CA/FO, Reilly will pay a civil penalty of $400,000. On February 23, 1994, Region 5 filed a complaint pursuant to §3008(a) of RCRA against Reilly for failure to submit required feed rate information, failure to conduct an adequate

certification of precompliance, failure to comply with applicable §265 standards, failure to conduct an adequate certification of compliance, failure to operate an adequate automatic waste feed cut-off (AWFCO) system, failure to conduct and document weekly inspections of the AWFCO system, failure to adequately monitor and record feed rate limits, and various exceedences of maximum feed rate limits. The complaint included a proposed penalty of approximately $1.7 million. After the complaint was filed, Reilly resolved outstanding RCRA compliance issues.

SDWA

***Gordon Tuck and Harry Stephens (Michigan)*:** On August 6, 1997, Gordon Tuck and Harry Stephens (T&S) were ordered to comply immediately with EPA's final administrative order (FAO) issued to them in September 1994. The FAO required T&S to plug and abandon an injection well and pay a civil penalty of $75,800 (plus interest and late fees). In addition, the judge ordered T&S to pay an additional $50,000 penalty for their noncompliance with the FAO.

TSCA

Murphy Oil Corporation (Wisconsin): Region 5 issued a TSCA civil complaint against Murphy Oil Corporation in July 1993 for late submission of TSCA Inventory Update Reports for 41 chemicals. The complaint sought $246,000 in penalties. Region 5 and Murphy settled the case through a CACO, which was filed on September 19, 1997. Murphy agreed to pay a penalty of $48,450.

MULTIMEDIA

American National Can Company (Northern District of Indiana): On July 10, 1997, the United States District Court for the Northern District of Indiana entered a consent decree resolving the United States' complaint against American National Can Company (ANC), which alleged violations of RCRA and EPCRA at the ANC Hammond, IN, facility. The consent decree provides for payment of a $400,000 civil penalty, expenditure of at least $30,000 to evaluate a SEP, and acknowledges that, subsequent to the complaint, ANC sold and no longer owns or conducts any business or commercial activities at the Hammond facility. ANC paid the $400,000 civil penalty on August 5, 1997. This consent decree resolves the first District Court complaint alleging data quality errors as violations of EPCRA §313.

Region V conducted a multimedia inspection of the ANC Hammond facility from September 14 through 18, 1992, as part of the geographic enforcement initiative for northwest Indiana. Although the facility generates hazardous waste, it is not a permitted treatment, storage, or disposal (TSD) facility subject to the full requirements of RCRA. On February 8, 1995, the United States filed a complaint against ANC for violations at its Hammond, IN, facility of RCRA, relating to the storage and management of solvent hazardous wastes. The complaint also alleged violations of EPCRA relating to the failure to report, or accurately report, information regarding the use of several toxic chemicals at the facility, pursuant to §313 of EPCRA.

Sherwin-Williams (Illinois): This multimedia enforcement action, which was filed in July 1993, involved allegations of violations of the CAA, CWA, RCRA, and EPCRA at a Sherwin-Williams resin and paint manufacturing facility on the south side of Chicago. Following extensive document discovery and depositions, the parties reached an agreement in principle in December 1995, and agreement on the terms of a consent decree in the fall of 1996. Administrator Browner announced the lodging of the decree in January 1997. In addition to the $4.7 million civil penalty, full compliance with applicable statutes and regulations, and facility-wide corrective action pursuant to §3008(h) of RCRA, the settlement includes two innovative SEPs: a $950,000 remediation project at a brownfield site in an environmental justice community near the Sherwin-Williams facility and a $150,000 wetland restoration project near the facility. A local community group objected to the consent decree, arguing that a different location closer to the facility should have been chosen for the brownfield SEP. However, following a hearing on the matter, the judge in the case noted that the alternative site in question was being addressed by EPA in separate actions, and concluded that the decree was lawful and fair.

CERCLA

Bayou Bonfouca Superfund Site (Louisiana): On June 23, 1997, the court entered a final judgment approving the $20 million cost recovery consent decree with Kerr-McGee Corporation and Kerr-McGee Chemical Corporation (collectively Kerr-McGee). In addition, on July 31, 1997, the court entered final judgement approving a $3.6 million cost recovery consent decree between the U.S. and Fleming American Investment Trust plc (FAIT), a British corporation. Region 6 still is pursuing additional parties for the remaining costs associated with the site.

Dixie Oil Processors Site (Texas): On July 31, 1997, the court ruled on *U.S. v. Lowe*, on appeal from the District Court for the Southern District of Texas, Galveston Division. The court explicitly rejected the Third Circuit's decision in *U.S. v. Rohm & Haas* and held that responsible parties are liable for the government's costs incurred in overseeing private parties' performance of removal and remedial actions.

Gurley Pits NPL Site and South 8th Street Landfill NPL Site (Arkansas): On August 15, 1997, the court ruled in the bankruptcy trial *U.S. v. Gurley* that assets valued at approximately $19 million, which the U.S. and trustee contended were transferred by improperly William M. Gurley to his wife, will be included as part of the bankruptcy estate. The court ruled that Gurley was the equitable owner of the assets and ordered that the assets will satisfy the U.S.'s claims against Gurley at these two sites where he is a PRP. In addition, the court refused to grant a discharge to Gurley because of false representations which he made in the bankruptcy proceedings.

Odessa Chromium II North Site (Texas): On July 24, 1997, the court ruled in *U.S. v. Chromalloy American Corp.* that Sequa Corporation must reimburse Region 6 for oversight costs billed pursuant to its RD/RA consent decree with Sequa. The court rejected *Rohm & Haas* as "incorrectly decided" and found that EPA had provided adequate cost documentation of Bureau of Reclamation (BOR) costs challenged by the Sequa.

Vertac Superfund Site (Arkansas): On May 22, 1997, the court entered a memorandum opinion adjudging Uniroyal Chemical Ltd. (Uniroyal) jointly and severally liable to the U.S. and the Arkansas Department of Pollution Control and Ecology (ADPC&E) as an arranger for past and future response costs both on and off the Vertac site. Additionally, the court found Uniroyal liable in contribution to Hercules, Inc., and Hercules liable in contribution to Uniroyal. The court previously granted a summary judgment to the U.S. on the issue of Hercules' joint and several liability for past and future response costs.

CLEAN AIR ACT

U.S. v. Formosa Plastics Corp. (Texas): On May 16, 1997, a final consent decree in the civil judicial action was entered against Formosa Plastics. This case involved violations of the following CAA provisions: 1) Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry found in 40 CFR 60, Subpart VV; 2) National Emission Standards for Vinyl Chloride found in 40 CFR 61, Subpart F; 3) National Emission Standards for Equipment Leaks from Fugitive Emission Sources found in 40 CFR 61, Subpart V; and 4) National Emission Standard for Benzene Waste Operations found in 40 CFR 61, Subpart FF. To settle the case, Formosa agreed to undertake a $6.6 million SEP which, after taking into account operational savings that will result from the installation of newer and more sophisticated equipment, is calculated to have an after-tax net present value of at least $640,000. In addition, Formosa will pay a cash penalty of $150,000.

U.S. v. Lyondell Petrochemical Company (Texas): On February 3, 1997, Region 6 filed a civil complaint against Lyondell Petrochemical Company for violating the CAA. The NESHAP violations were identified during a September 1992 EPA inspection of Lyondell's petroleum refinery in Houston, TX. The assessed penalty against Lyondell was $158,515. The Joint Stipulation and Order of Dismissal was entered on February 10, 1997.

CLEAN WATER ACT

Yaffe Iron and Metal Co., Inc. (Oklahoma): A consent decree was filed February 26, 1997, requiring injunctive relief in the form of a multimedia environmental audit, a $150,000 penalty, and stipulated penalties for violations of the consent decree. Yaffe owns and operates a metals recycling facility in Muskogee, OK. On June 23, 1995, the U.S. filed a complaint against Yaffe alleging that Yaffe violated CWA by discharging pollutants into waters of the U.S. without an NPDES permit.

EPCRA

Union Carbide Corp., Taft Plant (Louisiana): On June 27, 1997, a complaint and consent agreement and consent order were issued jointly to Union Carbide's Taft Plant in Hahnville, LA. The complaint alleges that Union Carbide failed to submit a timely, complete, and correct TRI reporting Form R for the reporting year of 1995 for dicyclopentadiene. The amount of the calculated penalty in the complaint was $21,055. In researching EPA files on this plant, it was discovered that Taft had a previous, closely-related violation--not reporting silver on Form Rs for reporting years 1992 and 1993. Settlement of the CACO was reached and a penalty of $19,000 was paid by Union Carbide on July 30, 1997.

RCRA

Marine Shale Processors (MSP/GTX) (Louisiana): A consent decree was filed and lodged, awarding the U.S. $8.5 million in penalties for alleged RCRA violations by MSP. The penalty has grown to slightly over $9.2 million, and upon entry, MSP/GTX will pay $2.25 million to the U.S. and $1.75 million to the state. The remainder of the funds in the registry may be withdrawn by the plaintiffs anytime after the final effective date of the consent decree ($3.5 million for the U.S., $5 million for the state). The consent decree also requires the following: GTX is prohibited from operating until it receives all necessary permits under RCRA, CAA and CWA; GTX has five years to obtain a landfill permit including four one-year extensions; and within 60 days of entry of the consent decree, GTX must submit a plan for the consolidation of all ash at the facility not located in the Solid Waste Management Unit (SWMU). Within 90 days of approval of the plan, GTX must remove the ash at off-site locations in accordance with the remedial investigation plan. All ash eventually will be disposed of at a Subtitle C landfill.

SDWA

Cuna Del Valle (Texas): Region 6, Headquarters, and DOJ filed federal lawsuits against colonia developers in an effort to address the environmental problems under the emergency powers provision of the SDWA. The first case, Cuna del Valle colonia in El Paso County, TX, was referred for civil action in September 1995, and a consent decree was filed simultaneously with the complaint on April 16, 1997, which requires the defendants to perform injunctive relief and stipulated penalties for violation of the consent decree.

U.S. (Sac and Fox Nation) v. Tenneco Oil Company (Oklahoma): A consent decree was filed and entered on June 2, 1997, requiring Tenneco Oil Company to provide the Sac and Fox Nation of Oklahoma with a potable water supply of 207 sustainable gallons per minute and $1.16 million in cash ($85,000 of which is restricted for certain cleanup, remediation, and other purposes). As a whole, the dollar value of the settlement agreement is over $3.5 million. On January 31, 1996, DOJ filed a complaint against Tenneco on behalf of EPA, DOI, the Sac and Fox Nation. The complaint sought punitive and exemplary damages, injunctive relief, and an order of abatement to redress continuing injuries related to the pollution of the surface resources and groundwater of the Nation. Tenneco and its predecessor companies operated oil leases on the Sac and Fox Nation from 1924 to 1989.

TSCA

Oklahoma Metal Processing Company, Inc., d/b/a/ Houston Metal Processing Company, and Newell Recycling Company, Inc. (Oklahoma): On October 7, 1997, the judge assessed a $1,345,000 civil penalty against Newell Recycling Company, Inc. (Newell). This is the largest TSCA PCB penalty amount ever awarded by an EPA administrative law judge (ALJ). Newell owned a scrap metal facility in Houston, TX, from 1974 until approximately September 1982, at which point in time it sold the facility to Oklahoma Metal Processing Company, Inc., d/b/a Houston Metal Processing Company (HMPC). As part of the sales agreement between Newell and HMPC, Newell agreed to retain liability for anything which arose

during the course of its ownership of the site. In 1984, HMPC discovered lead contaminated soil at the site and contacted Newell. During Newell's cleanup of the lead contaminated soil, 41 capacitors containing PCBs-contaminated oil were excavated. The capacitors were disposed of properly; however, the soil was piled next to the excavation area for at least ten years while Newell and HMPC argued as to who was responsible for the disposal. Samples of the soil taken during an EPA inspection on September 10, 1992, confirmed the presence of PCBs at concentrations above the regulatory threshold of 50 parts per million (ppm). EPA issued a civil administrative complaint against HMPC and Newell in March 1994. The judge found that the improper disposal of PCBs by the parties was a continuing violation, and granted the full penalty amount requested by EPA. Newell filed an appeal in the case on October 30, 1997.

MULTIMEDIA

U.S. v. EXXON Corp. (Louisiana): On October 9, 1996, a joint stipulation and order of dismissal was filed. Exxon Corporation paid a civil penalty of $209,600 to the U.S. for the following violations at its Baton Rouge refinery: failure to provide 30 days notice of performance test under CAA; NPDES monitoring, reporting, and effluent violations under CWA; and unmarked, open, and leaking solvent containers under RCRA. The penalty allocation was $20,000 for CAA, $73,000 for RCRA, and $116,600 for CWA violations.

CERCLA

Des Moines TCE Site (Iowa): On September 22, 1997, the Environmental Appeals Board dismissed Dico, Inc.'s, petition for reimbursement under CERCLA §106(b). Dico's Des Moines facility is located directly across the Raccoon River from the Des Moines Water Works, which provides drinking water to Des Moines and several surrounding communities serving over 250,000 customers. Volatile organic chemical contamination from Dico's facility forced the Des Moines Water Works to abandon a portion of its underground gallery system used to obtain its water supply. In July 1986, after attempts to negotiate a consent order failed, Region 7 issued a UAO requiring Dico to design, install, and operate a remedial action to prevent the migration of VOC-contamination from Dico's property to the water works gallery system.

FAR-MAR-CO Subsite, U.S. Cooperative Producers, Inc., and Farmland Industries, Inc.: In FY97, EPA entered into a consent decree under CERCLA §§106 and 107 with the settling defendants. These settling defendants agreed to perform the source control remedial action at the FAR-MAR-CO Subsite of the Hastings Groundwater Contamination Site (HGWCS) using soil vapor extraction (SVE). The settling defendants agreed to operate the SVE system for at least two years beyond the time when performance standards are met so that the SVE system will draw contaminants off of the groundwater and thereby reduce the source that has reached the groundwater. The settling defendants also agreed to pay the U.S. $954,019 in past costs and pay future costs which include oversight incurred in connection with both the source control and groundwater operable units.

City of Hastings (Nebraska): The City of Hastings, NE, entered into a Prospective Purchaser Agreement (PPA) with EPA on September 15, 1997. The city sought to purchase property that was part of the Hastings Groundwater Contamination Site (HGWCS). The agreement provides the city protection from a CERCLA suit by EPA or any party when the city purchases property owned by the Union Pacific Railroad that is part of the HGWCS. Presently, source control and groundwater actions are underway at the Colorado Avenue Subsite of the HGWCS. As consideration for the protection and covenant not to sue, the city will provide access to EPA or any party performing response actions at the subsite, such as for the installation of a water line that can be used to pump treated water from the subsite to a disposal area.

Jasper Counter Superfund Site and Cherokee County Superfund Site (Missouri): These sites are listed on the NPL; both counties are part of the Tri-State Mining District and are an inactive lead and zinc mining area containing over ten million tons of surface mining wastes. On December 12, 1996, the court entered a $1 million settlement with FSN, the corporate successor of a former owner/operator. In May 1997, the court approved a settlement with Connor Investment, a current landowner at the site that also owned property at the time of disposal of the mining wastes. Since Conner had no assets other than the 250 acre parcel of land at the site, Connor gave EPA and the state full access to the land as long as necessary for use as the on-site repository in exchange for a covenant not to sue.

In July 1997, the court approved a bankruptcy settlement with Eagle Picher (EP), one of the major mining companies in the area. Under the terms of the settlement, EP agreed to pay EPA significant money in exchange for a covenant not to sue. Region 7 received $6,107,368 for the Jasper County site and $2,325,042 for the Cherokee County site. In addition, the region received $1,404,849 in past costs for the Cherokee County site.

Meramec Marine Shipyard (Missouri): On September 24, 1997, Meramec Marine Shipyard and three of its officers were sentenced to pay a fine of $125,000, as well as $30,000 restitution to EPA for RCRA and CERCLA violations. On July 3, 1997, Edward T. Dlubac, Edward Theordore Dlubac, Thomas Dlubac, and Meramec Marine Shipyard, Inc., pleaded guilty to charges including illegally disposing of hazardous wastes and polluting the Meramec River wetlands. These Meramec Marine Shipyard employees occasionally pumped bilge waters from vessels and dumped containers of waste petroleum products into the Meramec River. Ignitable hazardous wastes containing toxic levels of

benzene were buried at the shipyard along with cans of ignitable paint waste containing toxic levels of chromium and lead. The case was investigated cooperatively by EPA's Criminal Investigation Division and the Missouri Department of Natural Resources.

Norandex, Inc., and the City of Joplin (Missouri): The U.S. entered into a prospective purchaser agreement with Norandex, Inc., and the City of Joplin, MO, regarding the purchase by Norandex of property within the Jasper County Superfund Site. EPA issued an ROD for the site in 1996 for cleanup of residential yards contaminated with lead from inactive lead smelter operations and for a health education program for the residents. Approximately 6,000 residences are within the areas of concern at the site. The agreement provides that the company pay $10,000 to the City of Joplin Health Department; the funds will be used toward the health education component of the ROD. Under the agreement, Norandex receives a CERCLA covenant not to sue for its potential liability as the owner of property located within a Superfund NPL site. There will be a substantial benefit to the environment by educating residents on the dangers of lead contamination.

North Ridge Homes: In January 1997, EPA and North Ridge Homes entered into a prospective purchaser agreement for the MRM Superfund Site, under which North Ridge will pay EPA $20,000 and implement deed restrictions in exchange for a covenant not to sue from EPA. The site was utilized formerly as a brass reclamation facility by MRM Industries. MRM abandoned the facility and went bankrupt in 1990, leaving behind significant contamination. The property, which is located in an industrial park and contains a 100,000 square foot industrial building constructed in 1988, has been vacant since that time. EPA performed a fund-led removal action at the site in 1996, at a cost of approximately $450,000.

Prier Brass Superfund Site (Missouri): EPA entered into a prospective purchaser agreement on August 13, 1997, at the Prier Brass Superfund Site in Kansas City, MO. In exchange for EPA's standard covenants not to sue in prospective purchaser agreements, the purchaser paid EPA $50,000 and filed deed restrictions requiring it to maintain the protective cover at the site. The new purchaser also paid the county $25,000. The foundry site formerly was the subject of a $2.5 million EPA-funded removal action in 1995 to address lead contamination. The former foundry operator had undergone bankruptcy. The property was being held by the county land trust for the non-payment of taxes. The new owner will operate its construction and demolition business at the site.

U.S. v. Russel Bliss, Jerry Bliss, and George Bliss (Missouri): A referral was initiated as a result of an unsatisfied judgment against Russell Bliss, the person responsible for spreading dioxin contamination at 28 sites in Eastern Missouri in the early 1970s. Russell Bliss has been a defendant in numerous actions brought by the U.S. regarding the dioxin contamination. However, he has never paid any money to the U.S. due to his inability to pay, a circumstance that has been investigated many times. The two judgments are for the amounts of $94,786 and $320,160 for the Rosalie and Callahan sites. As a result of the two unsatisfied judgements, a fraudulent conveyance action was filed against Russell Bliss and his two sons, Jerry and George Bliss, regarding the 1992 sale of a piece of property owned by Russell, Jerry, and George Bliss for less than value. This action was subject to mediation in July 1997. As a result of mediation, the U.S. agreed to accept $30,000 in settlement of the fraudulent conveyance and the underlying collection action.

U.S. v. TIC Investment and Stratton Georgoulis (Iowa): On January 13, 1997, the U.S. lodged a CERCLA consent decree providing for recovery of $530,000 in past costs incurred at the White Farm Equipment Dump Site in Charles City, IA, and payment by the defendants of $100,000 in civil penalties for violations of CERCLA §104(e). In the settlement of this case, the Agency 1) demonstrated resolve to pursue non-settlors; 2) established precedent in the Eighth Circuit on novel issues of parent corporation and corporate officer arranger liability under CERCLA; 3) achieved PRP clean-up of the site and recovery of nearly all of costs and prejudgment interest; and 4) collected a substantial penalty under §104(e), thereby sending a message to the regulated community as to the consequences of failing to fully and truthfully respond to CERCLA information requests.

CLEAN AIR ACT

Stiffler, Carl & Jean, d/b/a Southwest Wrecking Company (Shallow Water Refinery) (Kansas): The first CAA §303 administrative emergency order in the nation under the 1990 CAA Amendments was issued by Region 7 on June 5, 1997. The respondents, who specialize in reclamation activities, purchased the Shallow Water Refinery approximately three years ago. The refinery closed and the respondents were salvaging the metal components from the facility.

The Kansas Department of Health and Environment (KDHE) had been conducting periodic inspections to monitor compliance with the asbestos NESHAP requirements at the demolition site. KDHE conducted an inspection of the site in late May 1997, and discovered that a 100 foot tall tower which was covered with asbestos-containing insulation, had been cut down, covering the area with dry asbestos-containing insulation debris. The respondents' grandchildren were playing in and around the asbestos at the site. In response to KDHE's request for an immediate response to this hazard, the region issued an emergency order under CAA §303 requiring the respondents to stop all activities at the site, to restrict access to the site, and to prepare a plan to come into compliance with the NESHAP for asbestos. The respondents complied with the emergency order.

CLEAN WATER ACT

City of Sedalia (Missouri): An administrative order for compliance and a complaint were simultaneously issued on November 22, 1996, to the City of Sedalia, MO, for the city's failure to implement and enforce its pretreatment program. The violations first were identified in an inspection conducted by the region during the summer of 1995 with a written warning by the region to the city to correct the violations and be prepared for a follow-up inspection the following year. In the summer of 1996, the inspector returned to the city and found that the deficiencies had not been corrected, resulting in the issuance of this action. Violations included the city's failure to develop and implement an enforcement response plan; failure to implement procedures to ensure industrial users are in compliance with pretreatment standards and requirements; failure to issue permits or other control mechanisms containing correct discharge limits for two industrial users; and failure to perform local limits analyses for two of its pretreatment plants. The parties reached an agreement to settle the matter for a penalty of $50,000 and correction of the violations.

Halls Ferry Center, Inc., and Halak, Inc. (Missouri): On June 30, 1997, EPA filed an administrative complaint and compliance order for violations of CWA §404 in connection with the excavation of two ditches within a forested wetland area north of St. Louis, MO. The excavated ditches discharged into the Missouri River and resulted in the drainage of approximately 40-50 acres of wetlands. The complaint proposed a penalty of $20,000 for the violations. The parties reached an agreement in which the respondents paid a penalty of $15,000 and fully restored the wetlands.

Labarge, Inc. (Missouri): An ALJ awarded EPA the statutory maximum administrative penalty of $125,000 in this pretreatment case. The respondent, an electroplating operation, discharged copper in excess of its allowable permit limit and the applicable regulations over an approximate three year period. During this period, the respondent exceeded the monthly average standard for copper eleven times. Of the eleven monthly average violations, six exceeded the standard by more than 1000 percent. One monthly average violation was nearly 5000 percent over the legal limit.

EPCRA

Crustbuster/Speed King, Inc. (Kansas): On January 31, 1997, a CACO in this case was issued to Crustbuster/Speed King, Inc., of Dodge City, KS, resolving the EPCRA §313 TRI reporting violations. The respondent documented an inability to pay the proposed penalty of $93,556, but also demonstrated a willingness to implement numerous changes in its operating practices and equipment uses to reduce toluene and xylene in its paint spraying operations. The respondent paid a reduced penalty of $100 and submitted certification of completion of two SEPs worth $72,700. In addition to the SEPs, which included changing high toluene and xylene usage paint spraying equipment for low-emission (reductions of at least 30 percent) and VOC-conserving spraying equipment, the respondent instituted numerous in-house good faith measures to demonstrate its commitment to achieve pollution prevention goals. These measures included: continuing training regarding operation of equipment

and work practices to minimize VOC usage and emissions; instituting regular safety committee/EPA compliance committee meetings to discuss suggestions for and implementation of process and operation changes to achieve further pollution prevention; and the personal commitment of the plant supervisor and personnel coordinator to join and participate in the Ford County, KS, LEPC.

FIFRA

David Redler, d/b/a Tree N' Turf Lawnscapes (Nebraska): On September 23, 1997, a default judgment was entered against David L. Redler, d/b/a Tree N' Turf Lawnscapes. The judgment is for $1,065.75 plus interest of 5.6 percent per annum from the date of the judgment, plus costs of $252. This matter was referred to DOJ for collection after the respondent failed to pay the civil penalty assessed by an administrative order on default. Redler defaulted in the administrative action by failing to comply with the prehearing exchange order issued by the ALJ. Because the region has information that Redler is continuing to apply pesticides in Nebraska, EPA targeted this case for collection of the unpaid administrative penalty.

RCRA

American Microtrace Corp. (Nebraska): On January 29, 1997, Region 7 issued an UAO pursuant to RCRA §7003 to American Microtrace Corporation (AMT) in Fairbury, NE. AMT uses sulfuric acid extraction to reclaim zinc and manganese from zinc fume dust it receives from brass foundries. The company makes pelletized zinc and manganese additives for cattle feed and fertilizers and produces commercial-grade zinc. The order required AMT to remove all illegally stored waste and soil; manage all incoming zinc fume dust as hazardous, ensuring that no releases to the environment occur; and cease receiving zinc fume dust until it could demonstrate that its management practices would no longer allow the dust to be released to the environment.

EPA inspectors visited the plant in September and October 1996 and found numerous RCRA violations. Analysis of samples collected during the inspections revealed that lead and cadmium were present in the sediments of a nearby wetland at high toxicity levels for these metals. In addition, employee medical monitoring records showed that many employees had elevated blood lead readings at levels which may cause adverse health effects. The area also is home to at least two endangered species, including the peregrine falcon and the fringed prairie orchid, and also is a habitat for many native species of plants and animals and a flyway for migratory waterfowl.

Graphic Circuits Corp. and Barry Smith (Iowa): This action dealt with hazardous wastes generated by Graphic Circuits Corp., which operated an electronic circuit board manufacturing business in Cedar Rapids and Marion, IA. The company generated wastewater treatment sludge and corrosive hazardous wastes as a result of its manufacturing activities. Approximately 43 55-gallon drums of corrosive hazardous waste were moved from the Cedar Rapids facility to the Marion facility. The respondent, Barry Smith, is the president and owner of Graphic Circuits, and personally owned the Marion, IA, facility. Administrative complaints were issued to both Graphic Circuits Corp. and Barry Smith, individually as owner and operator of the Marion facility. Alleged violations included: failure to file a hazardous waste report for the hazardous waste; failure to obtain a permit for the hazardous waste storage area at the Marion facility; shipment of hazardous waste off-site without preparing the required hazardous waste manifest; and failure to obtain a permit for the storage and treatment of hazardous waste at the Cedar Rapids facility. Compliance orders issued concurrently with the complaints required Graphic Circuits and Barry Smith to comply with specific requirements for generators of hazardous waste and to implement RCRA closure of the hazardous waste storage and treatment areas at both the Marion and Cedar Rapids facilities. In addition, the region and the respondents negotiated a settlement requiring the payment of $191,000 in penalties and the closure of the RCRA treatment and storage areas at both facilities.

TSCA

LaClede Gas Company (Missouri): Settlement of this action brought under TSCA for violations of the regulations which govern the disposal, storage, marking and notification, and manifesting of PCBs included the payment of a civil penalty as well as the performance of significant SEPs by the respondent. Among the projects undertaken pursuant to the settlement, LaClede has agreed to participate in a program to make compressed natural gas (CNG) available as a clean-burning transportation fuel for the St. Louis area. It is hoped that the CNG program

will advance environmental justice objectives by minimizing air pollution in various urban, low-economic areas. As part of LaClede's CNG program, LaClede constructed a "quick-fill" CNG fueling station at its Shrewsbury, MO, facility. This fueling station has been constructed to be accessible to non-LaClede CNG-powered fleets, including the U.S. Postal Service. In addition, LaClede has entered into a partnership to construct the first public CNG fueling facility in Missouri.

Solomon Corp. (Kansas): An administrative complaint was issued on September 25, 1996, alleging violations of TSCA §6(e) regarding the storage, processing, use, distribution, marking, and disposal of PCB-contaminated cable by the Solomon Corporation. This case began in June, 1995, when Region 7 learned that Solomon had received 1.2 million pounds of PCB-contaminated electrical cable. The cable was tested prior to its receipt by Solomon and shown to contain over 400 ppm PCB. The violations in the complaint arose out of Solomon's handling of the cable, which contained copper wire that Solomon was planning to salvage and sell.

In addition to the payment of a penalty of $63,750, in settlement of this matter the respondent agreed to the performance of three SEPs based on EPA's PROJECT model with an estimated cost of $250,000. The first SEP involves the modification of the paint line for its pole-mount transformer line, which will result in an anticipated reduction in air emissions of VOCs and will completely eliminate the respondent's routine use of methylene chloride. The second SEP involves the construction of an oil storage building at 121 West Main Street, Solomon, KS, which will reduce the risk of release of PCBs into the environment. The third SEP involves the construction of a heavy security fence enclosing its yard inventory at its First Street location. Under a CACO issued on April 20, 1997, Solomon agreed that it would not receive, accept, or store any PCB oil or PCB item that was contaminated at or above 50 ppm PCB. Solomon currently is paying off the $176,000 in payments plus interest, based on its acceptance of the PCB-contaminated cable which was the subject of this case.

MULTIMEDIA

Brush Creek Oil Spill (Missouri): On April 4, 1997, a UAO was issued to Twin Oaks Associates, L.P., pursuant to CWA §311 and RCRA §7003. The UAO required the respondent to take action to remove oil seeping into a storm sewer in Kansas City, MO, and discharging into Brush Creek. The respondent is the owner of an apartment building located in Kansas City. A heating oil tank at the apartment building ruptured in December 1996, losing 4,510 gallons of oil, 3,660 gallons of which were never recovered. The oil first was reported to be flowing into Brush Creek on January 31, 1997. EPA received reports of fish killed by the oil in the creek.

HWH Corp. (Iowa): An administrative complaint and compliance order was issued against HWH Corporation on September 30, 1997. This complaint alleged three counts against HWH Corporation: 1) storage of hazardous waste without interim status or a permit; 2) failure to clean up a release of used oil; 3) and failure to prepare an SPCC Plan. The compliance order requires that respondent submit the following to EPA: a cleanup and disposal/management plan for cleaning up and for the disposal or other proper management of the released used oil and other contaminated materials to the environment; a closure plan that meets the requirements of 40 CFR 265, Subpart G for the hazardous waste storage area at the facility; certification of closure as required by 40 CFR §265.115; and an SPCC Plan.

Missouri Charcoal Kilns (Missouri): In a consolidated settlement of administrative complaints filed for violations of the accidental release reporting requirements of EPCRA §304 and CERCLA §103 and violations of the TRI reporting requirements of EPCRA §313, three major Missouri charcoal companies committed to spend an estimated $1.75 million to install air emission control devices on 165 active charcoal kilns in the state, or to remove these kilns from operation within the next seven years. The CACO filed September 30, 1997, with Royal Oak Enterprises, Inc., West Plains Charcoal Company, and Patio Chef Company, LLC, requires that controls be installed on a fixed schedule beginning in April 1998. Emission reductions will begin almost immediately, and several of the facilities will be controlled fully within four years. EPA estimates that the installation of the control devices and the shutdown of 64 designated kilns will result in the prevention of over 100 million pounds of PM_{10}, VOCs, and carbon monoxide emissions. In addition, the respondents are required to pay a civil penalty of $50,000.

CERCLA

Allied Signal, Inc., and General Chemical Corp. (Colorado): On December 31, 1996, under the terms of CERCLA §112(h)(1) Administrative Settlement Agreement, PRPs Allied Signal, Inc., and General Chemical Corporation paid $177,112 to settle their CERCLA §107 liability of OU-6 of the Denver Radium Site located in Denver, CO. In return, the U.S. agreed to provide the settling parties with a covenant not to sue limited to claims for civil liability. The settlement amount represents 99.6 percent of past response costs incurred by the U.S. at the site. The source of radium contamination appears to have been radium-contaminated fill brought in from one or more unknown construction sites during the late 1960s and/or early 1970s. Lead and other non-radiological wastes found on the property apparently resulted from activities related to the manufacture of sulfuric acid and other chemical products by General Chemical and its predecessors. In May 1991, EPA commenced cleanup of the 135 tons of radiological and mixed wastes found at the site and sent them to an off-site permitted disposal facility.

ASARCO, East Helena Facility (Montana): On April 25, 1997, pursuant to the AOC for Removal Action at the East Helena site, ASARCO agreed to pay $60,000 in stipulated penalties to EPA for failure to pay its annual billing in a timely manner. Another issue that culminated in September 1997 related to ASARCO's failure to pay response costs. EPA entered into dispute resolution and ASARCO agreed to pay $330,419 in settlement of this issue.

Chemical Handling Corp. Site (Colorado): On September 8, 1997, DOJ approved EPA's second *de minimis* settlement for this site. This settlement was entered into with previously unlocatable generators and those generators who did not participate in the first *de minimis* settlement. The site was operated as a hazardous waste fuel blending and solvent recovery facility from early 1988 until February 1992. The fuel-blending operations combined hazardous wastes from various generators into a hazardous-waste fuel which was used in industrial furnaces and cement kilns. PRPs located for the second settlement were offered the same premium (9 percent) that was used for PRPs in the first settlement. The PRPs that simply chose not to participate in the initial settlement were also sent the second settlement offer, although the premium was higher (60 percent). Of the 174 generators eligible for the second *de minimis* settlement, 49 have signed the AOC. The combined monetary total for the settlement is $131,646. This amount, when added to the $1,097,244 agreed to be paid by the parties to the first *de minimis* settlement, represents approximately 42 percent of the $2,948,615 in response costs incurred by the U.S. through March 31, 1997.

Portland Cement (Utah): The Portland Cement site is an NPL site on which most surface remediation has been completed. The major party at the site, Lone Star Industries, settled its liability with the U.S. in 1992. Negotiations with minor landowner parties have since continued. Two of these five parties have signed consent orders and provided the U.S. with $100,000 and institutional controls. Easement acquisitions have been approved by the Office of General Counsel (OGC) and the agreements have been approved by the Region 8 Regional Administrator.

Summitville Mine Site (Colorado): EPA will receive $700,000 from three companies that are responsible for contributing extremely small amounts of waste at the Summitville Mine Superfund Site, located near Del Norte, CO. This finalizes an agreement which was reached in July between EPA and the Cleveland-Cliffs Iron Co., Union Pacific Resources Company, and Union Pacific Resources Group. This settlement did not become final until the public had a chance to comment on the agreement and represents only a small portion of the $150 million EPA expects to spend cleaning up the abandoned open pit gold mine.

Traub Battery and Body Shop (South Dakota): On October 11, 1996, EPA issued a consent decree settling the cost recovery action associated with the Traub Battery and Body Shop Site in Sioux Falls, SD. The consent decree requires Exide, John Morrell & Co., Graham Tire, J.C. Penney, Kmart, and the South Dakota Department of Transportation to reimburse the U.S. $313,000 for costs incurred in

performing a removal action at the former battery cracking facility, because each of the settling parties sent used batteries to the site.

CLEAN AIR ACT

Plum Creek Manufacturing, L.P. (Montana): Plum Creek Manufacturing agreed to pay penalties totaling $375,000 and complete a beneficial environmental project for past CAA violations at its Pablo Lumber Mill, located on the Flathead Indian Reservation. The settlement resolved government claims that the lumber mill's wood-fired boiler violated national particulate emissions limits and opacity levels since its construction in 1990. Plum Creek disputed EPA's claim that these requirements applied to its facility. Despite its contention, the company agreed to install emission control equipment and an air quality monitoring device.

EPA contends that emissions from the mill negatively impacted the health and environment of the area around the City of Pablo and the tribal community. Therefore, in addition to its penalty, Plum Creek will purchase high-grade road-sanding material for the Confederated Salish and Kootenai Tribes. The tribes will use the sanding material during the winter months on roads in and around Pablo. This material will cut road dust (another source of airborne particles), while maintaining vehicle traction during snowstorms. Without admitting to the federal allegations, Plum Creek agreed to pay the penalty, complete the environmental project, and comply with all applicable laws in the future.

Stone Container Corp. (Montana): Stone Container Corporation agreed to meet air pollution control requirements at its Missoula Mill and will pay penalties of $302,500 for past violations. Stone Container's Frenchtown mill produces liner board and other paper products by converting wood chips and cardboard into pulp and then into paper. The complaint charged that the company bypassed a pollution measuring device to avoid recording violations of health-based air standards. Air quality in the Missoula Valley currently does not meet the national health-based standard for fine airborne particles also known as PM_{10}. This dust is made of solid or semi-solid particles small enough to be suspended in the atmosphere. EPA contended that air emissions from Stone's mill contained fine particles and sulfuric gasses. EPA's complaint also said the company did not properly monitor its smoke opacity, which is the density or darkness of smoke from a facility's smokestacks. During a facility inspection, EPA also discovered other types of opacity violations. By measuring opacity, EPA and the State can verify if pollution control equipment is working properly. Without admitting to any of the allegations, Stone Container agreed to pay the penalty and comply with applicable laws in the future.

Vastar Resources, Inc. (Colorado): DOJ, on EPA's behalf, agreed to settle its lawsuit against Vastar Resources and Atlantic Richfield Company (ARCO) for a combined total of $657,412. EPA alleged that both companies incurred CAA violations at their facility on the Southern Ute Indian Reservation in La Plata County, CO. Vastar is the current owner of the facility; ARCO is the previous owner. The agreement required Vastar to pay $137,949 of the $657,412 the company saved by operating its natural gas production engines without installing proper pollution control equipment to limit carbon monoxide (CO) emissions. After notifying the Agency of the alleged violations, Vastar began installing proper pollution control devices costing nearly $247,000. This equipment has resulted in CO emission reductions at the facility of 3,700 tons or 80 percent per year. Applying its self-policing policy, EPA reduced Vastar's penalty by several hundred thousand dollars. In this instance, EPA applied the policy because Vastar audited itself, identified environmental problems, rapidly notified EPA, and fixed the detected alleged violations.

ARCO's settlement of $519,463 includes money it saved operating the gas production engines without necessary pollution controls, as well as a penalty for failure to initially install proper pollution control equipment. ARCO disclosed these alleged past CAA violations at the same time Vastar came forward. However, because the company failed to detect, notify, and correct the equipment problems while it owned the facility, it did not meet EPA's standards for self-disclosure. The company did cooperate with the investigation; therefore, EPA elected to reduce ARCO's penalty. Without admitting to the federal allegations, Vastar and ARCO agreed to pay the penalty and comply with applicable laws in the future.

CLEAN WATER ACT

ASARCO, East Helena Facility (Montana): EPA and ASARCO met in Washington, DC, on July 14-15, 1997, to continue negotiations on settlement of the national initiative. Of the three components comprising "Phase 1" of the national case, the NPDES claim at the East Helena facility is the first, and only, portion of the case to settle. The NPDES case settled for $1 million economic benefit and $36,100 gravity in cash plus two SEPs. The first SEP is a restoration of wetlands in the disturbed area where the violations occurred. EPA has credited ASARCO $211,080 of the $390,000 cost to do the project. The second SEP is ASARCO's corporate-wide environmental management system (EMS) audit for all ASARCO facilities. The cost of the audit is still unclear, although EPA believes its value is between $4-5 million. This case only is offsetting $113,820 of the cost for gravity.

City of Watertown (South Dakota): A consent decree was issued settling the penalty portion of the CWA case against the City of Watertown. The action alleged numerous violations including allowing the discharge of pollutants above acceptable levels from the city's wastewater treatment plant to the Big Sioux River. The settlement calls for the city to pay a cash penalty of $550,000. An earlier consent decree entered by the court in December 1995 requires the city to comply with all conditions of its pretreatment permit by the end of 1997. The city determined that full compliance required major modifications to its facility.

John Morrell and Company, Inc. (South Dakota): A second partial consent decree has been signed by the defendants resolving the civil CWA case against Morrell. The first partial consent decree, entered in April 1996, resolved injunctive relief wherein Morrell was required to do additional monitoring, a pollution prevention audit, and a waste minimization audit. The second partial consent decree calls for a $250,000 penalty, a compliance audit, and a management audit. It also implements EPA's Self-Disclosure Audit Policy.

Sheyenne Tooling & Manufacturing Co., Inc. (North Dakota): On December 30, 1996, a judicial decision was issued in the CWA case against Sheyenne Tooling & Manufacturing Co., Inc., assessing a $60,150 civil penalty, for Sheyenne's violations of the categorical pretreatment standards for metal finishers. The penalty amount was derived by assessing $1 per day for each day of noncompliance; finding an economic benefit of $4,600 per year for ten years; assessing a general penalty of $10,000 for failure to obey the regulations; and requiring $500 for continuing to electroplate for one week after receiving a compliance order from EPA. The principle of requiring persons at fault to be held to a level playing field was applied in this case. The defendant operated a small-scale facility in a sparsely-settled community.

The Telluride Company (Colorado): On April 25, 1997, a consent decree was signed calling for the defendants to pay a civil penalty of $1.1 million and restore approximately 11 acres of wetlands through fill removal and approximately two acres through hydrologic restoration. The required work also is expected to hydrologically enhance an additional five acres of wetlands. The consent decree also provides for mitigation for 15 acres of wetlands impacts and payment of $50,000 should the U.S. successfully appeal an adverse decision by the court on the statute of limitations.

Entry of the consent decree resolves this long-standing wetlands case involving unauthorized fills at the Telluride Mountain Village, a major ski and golf resort development in San Miguel County, CO, near the town of Telluride. A prior consent decree calling for payment of a civil penalty of $143,000 and restoration of 15.43 acres of wetlands on the site and 26.5 acres off-site was rejected by the court in April 1994.

Trail King Industries (South Dakota): On March 4, 1997, the U.S. lodged a consent decree settling alleged violations of CWA pretreatment regulations for metal finishers. Trail King Industries of Mitchell, SD, agreed to the payment of a $400,000 civil penalty for its violations. This penalty is a record recovery against a metal finisher in Region 8. Additionally, Trail King agreed to construct a sample collection point (manhole) outside its facility so that local authorities and EPA have unconditional access to sample wastewater discharges. Trail King also agreed to have an independent environmental compliance review of its facility for any compliance issues relating to CWA and RCRA.

EPCRA

Colorado Paint Company (Colorado): A consent agreement was incorporated into a consent order on May 12, 1997. In the agreement, Colorado Paint Company (CPC) was ordered to comply with EPCRA regulations. CPC committed to pay a penalty of $4,000 and to complete a SEP anticipated to cost approximately $37,400. On June 22, 1995, an administrative complaint containing fourteen counts was issued to CPC alleging certain violations under EPCRA.

Neoplan USA Corp. (Colorado): On January 7, 1997, the EPA and Neoplan USA Corporation entered into an agreement in which Neoplan agreed to pay a penalty of $26,239 and to expend at least $27,000 on a SEP for violations of EPCRA §313 reporting requirements. The consent agreement was incorporated into a consent order signed by the EPA on January 8, 1997. The SEP will require Neoplan over the next four years to lease spray gun cleaning machines. These machines are expected to reduce the amount of solvent emissions released into the air from its Lamar, CO, facility by approximately 16,000 gallons a year.

RCRA

Envirocare (Utah): In December 1995, Utah's Department of Environmental Quality (UDEQ) issued Envirocare of Utah, Inc., an NOV for 31 violations of Utah rules and the RCRA permit that governs operation of the company's hazardous and radioactive waste facility near Clive, UT. Envirocare is a commercial low level radioactive waste, mixed waste (radioactive and chemical), and uranium/thorium mill tailings waste disposal facility. The facility accepts a large amount of waste from numerous federal government generators.

In August 1997, Region 8 determined the potential for harm was more serious than UDEQ had concluded. The EPA proposed penalty in its complaint was $601,503, as compared to UDEQ's penalty of $79,000. An agreement in principle on EPA's complaint was reached between EPA and Envirocare at an October 14, 1997, meeting. The terms of the agreement include payment of $197,000 by Envirocare to UDEQ.

North American Environmental, Inc.: On June 16, 1997, Roy N. Hart, President and former owner of North American Environmental, Inc., was placed on probation for three years with a special condition of six-month home confinement between the hours of 10 p.m. and 6 a.m. He also was ordered to pay restitution in the amount of $1,347,922, which represents the amount paid by Freeport Center and generators who removed their PCBs early in the process. On April 15, 1997, Roy N. Hart pled guilty to one felony count for the illegal disposal of hazardous waste in violation of RCRA. Hart was indicted previously on one count of RCRA storage without a permit, one count of RCRA disposal, one count of PCBs storage without a permit, and one count of storage of PCBs in excess of one year.

Reclaim Barrel Supply Co., Inc., and Allstate Container Inc. (Utah): On October 7, 1996, Ray F. McCune, owner and operator of Reclaim Barrel Supply Company, Inc., and Allstate Container, Inc., was sentenced to a prison term of 18 months, a $20,000 fine, $100,000 in restitution, and one year of supervised probation upon completion of his jail sentence. McCune pled guilty to two counts of illegal storage of hazardous wastes in violation of RCRA, one count at Reclaim Barrel Supply and one count at Allstate Container. Reclaim Barrel Supply was a drum reconditioning facility located in West Jordan, UT. In 1992, McCune abandoned the facility, leaving behind a Superfund site totaling $875,000 in cleanup costs. McCune then opened a new drum reconditioning facility, Allstate Container, Inc., approximately three miles down the road from Reclaim Barrel in West Jordan, UT. During a 1993 EPA Criminal Investigations Division search warrant, approximately 250 drums of illegally stored hazardous waste were found and sampled. In addition to the RCRA violations, McCune had directed employees to open a sealed drain and discharge pollutants into the sewer system in violation of McCune's non-discharge permit.

TSCA

Colorado School of Mines Research Institute (Colorado): On September 3, 1997, Region 8 signed a consent order approving and incorporating a consent agreement resolving a TSCA PCB action against the Colorado School of Mines Research Institute (CSMRI) in Golden, CO. CSMRI, a not-for-profit organization, agreed to conduct SEPs totaling between $58,500 and $65,000.

CERCLA

Burbank Operable Unit (California): In late 1996, EPA completed negotiations for a second consent decree that will provide for an additional 18 years of operation and maintenance for the interim remedy at the Burbank OU of the San Fernando NPL sites. Under the second consent decree, Lockheed Martin, one of the responsible parties at the Burbank OU, will fund substantially the remaining 18 years of operation and maintenance for the interim remedy and pay 100 percent of EPA's future response costs. The City of Burbank will operate the system. The other PRPs will cash out based on payments made to Lockheed Martin as settlement of its contribution action against them.

EPA also will recover approximately $11.8 million in past basin-wide response costs under the second consent decree. This amount represents a 62.5 percent share of basin-wide costs calculated through September 30, 1995. EPA also has taken action to reduce the costs of cleanup by $49 million, agreeing to reduce the extraction rate and eliminate a reinjection well field. The total costs associated with the Burbank OU interim remedy will be approximately $100 million.

The Burbank OU interim remedy also is a groundwater extraction and treatment system which currently requires extraction and treatment of 9,000 gpm, blending to reduce nitrate concentrations, and delivery of the water to the City of Burbank. Lockheed Martin currently operates the system under a 1992 partial consent decree with Lockheed Corporation (now Lockheed Martin), Weber Aircraft, Inc., and the City of Burbank. The first partial consent decree and unilateral order terms will expire in approximately the year 2002.

Del Amo NPL Site (California): In early 1997, the major PRPs at the Del Amo Superfund Site reached a mediated agreement with the neighboring residential community to voluntarily purchase and provide relocation assistance to families living on 65 parcels adjacent to the Del Amo NPL Site. Although the buy out/relocation was not structured as a CERCLA response action, EPA was a major participant throughout the mediation process leading to this unprecedented agreement. This mediation was conducted on a parallel timetable with the EPA Superfund remedial decision process for the Del Amo Site Waste Pit OU. These waste pits are located immediately adjacent to the residential lots that are being purchased by the PRPs. The waste pits contain high levels of hazardous substances such as benzene, toulene, and other wastes from the production of synthetic rubber. EPA issued an ROD for the Waste Pit OU in September 1997.

Glendale North and South Operable Units (California): At the Glendale OU of the San Fernando NPL sites, EPA issued two unilateral CERCLA orders in FY1997 to assure that cleanup work continues. On November 26, 1996, after the completion of remedial design under a 1994 AOC, EPA required the completion of the first nine months of pre-remedial construction. On September 30, 1997, EPA ordered the completion of the remainder of the work required by the Glendale RODs. The Glendale OU interim remedies are extraction and treatment systems with separate extraction well fields and a combined treatment plant. After treatment and blending to reduce nitrates, the water will be delivered to the City of Glendale.

Hendler v. U.S. (California): On July 16, 1997, a final judgement was issued in favor of the U.S. in the Hendler Fifth Amendment "takings" litigation. Property owners had sued the U.S. for damages on the theory that installation of groundwater monitoring wells on their property downgradient of the Stringfellow landfill constituted a "taking" of their property. The Stringfellow landfill is a major Superfund site in southern California.

The trial court held that the U.S. did not owe any compensation to the plaintiffs for the installation and sampling of the 20 groundwater monitoring wells on the plaintiffs' property. (In 1991, the court had found the imposition of these wells to be a "physical" taking under the Fifth Amendment.) The basis for the trial court's ruling was that EPA's activities resulted in an increase in the value of plaintiffs' remaining property interests that was greater than any decrease attributable to the monitoring wells. Hence, while there was a taking of monitoring well easements, no compensation was due.

Industrial Waste Processing Site (California): On July 30, 1997, a consent decree was entered in connection with the Industrial Waste Processing (IWP) Superfund Site in Fresno, CA. IWP conducted operations as an industrial waste reclamation facility between 1966 and 1981. During IWP's years of operation, various types of industrial wastes were sent to the site, including spent solvents, lead solder wastes, and glycol waste from natural gas production. EPA added the site to the NPL in August 1990.

Under the terms of the consent decree, four PRPs agreed to perform a non-time critical removal action for the Soils OU at the site. The response action will involve the excavation of on-site and surrounding offsite surface soils containing lead in excess of 400 mg/kg and volatile organic compounds in excess of 7 mg/kg, as well as the transportation of that contaminated soil to an offsite treatment and disposal facility. In addition to performing the response action, the settling PRPs will pay $50,000 in past costs. (Under a prior administrative settlement, EPA received payment of approximately $1.3 million in past costs.) This settlement also implemented the Orphan Share Reform at the IWP Site by providing for a reduction of oversight costs in the amount of $163,000.

Lorentz Barrel & Drum (California): On September 17, 1997, EPA Region 9 entered into its third *de minimis* settlement for the Lorentz Barrel & Drum Superfund Site. Lorentz Barrel & Drum is a former barrel and drum recycling facility located in San Jose, CA. Under the agreement, EPA will recover $1,042,296 and the California Department of Toxic Substances Control (DTSC) will recover $490,492. The agreement resolves EPA and DTSC's claims against 42 *de minimis* generators or transporters of hazardous substances disposed of at the Site. EPA and DTSC offered this settlement to 113 *de minimis* parties, each of whom contributed no more than one percent and no less than approximately 0.012 percent of the total number of barrels sent to the site that may have contained hazardous substances.

Newmark Groundwater Contamination Superfund Site (California): Region 9 negotiated approximately $5 million in source investigative work under a voluntary agreement with the U.S. Army in connection with the Newmark Groundwater Contamination Superfund Site in San Bernardino, CA. The Army will be performing the source investigative work under the auspices of the Defense Environmental Restoration Program for formerly used defense sites in coordination with EPA's Superfund program. This investigation may provide information regarding the source of the groundwater contamination at the Newmark site. This source investigation is expected to culminate in an ROD for the final remedy. Among other likely sources for the suspected contaminants, EPA has identified Camp Ono, a former World War II Army depot, as a potential source of the contamination.

This high profile Superfund case involves the release of chlorinated solvents to a groundwater resource that serves 600,000 southern Californians. Groundwater contamination at the Newmark site has spread to over an eight-square mile area, introducing toxic chemicals to seventeen municipal wells. In an effort to mitigate the spread of contaminants as quickly as possible, EPA provided approximately $20 million in Superfund monies to construct groundwater treatment systems as part of the interim remedies adopted under two previous RODs.

North Hollywood Operable Unit (California): After two years of litigation, EPA concluded its second settlement for costs at the North Hollywood OU of the San Fernando NPL sites. The second consent decree, entered on May 14, 1997, recovered $4.8 million in site costs. Together with a prior settlement in the case, EPA has recovered $8.75 million in costs for response action at North Hollywood.

EPA's past costs in this case are attributable to the construction and operation of the North Hollywood OU interim remedy, operated through a cooperative agreement with the State of California and the Los Angeles Department of Water and Power (LADWP). LADWP currently operates the North Hollywood OU interim remedy groundwater extraction and treatment system and delivers the treated water to the public drinking water supply. The North Hollywood OU system began 24-hour operation, pumping approximately 2,000 gallons per minute (gpm) in December 1989, and is scheduled to operate through the year 2004.

Operating Industries, Inc. (California): Region 9 took three significant enforcement actions at the Operating Industries, Inc. (OII) Superfund Site, including the second unilateral order for site work, completion of the sixth cost recovery settlement, and initiation of special notice negotiations for implementation of the fourth ROD.

On March 7, 1997, EPA issued its second CERCLA §106 unilateral order for the OII site. The order requires seven companies to perform $3.5 to $4.5 million in RD/RA work starting in May 1997. The order assured the continuation of a portion of the work previously performed under the first partial consent decree, which ended on May 10, 1997. Five of the seven respondents are in compliance.

On September 23, 1997, the sixth partial consent decree was entered for the OII Superfund Site, resolving the liabilities of GSF Energy, LLC (GSF), the former owner and operator of a methane recovery system at the OII landfill, and GSF's former parent company, Air Products, Inc., subject to standard reopeners. This settlement was the first in Region 9, and possibly the first in the country, to address the CERCLA liabilities of a methane recovery owner or operator. The sixth partial consent decree raised $1.762 million for response costs at the OII Site.

On September 30, 1997, the region issued a special notice letter under CERCLA §122 to 270 major generators, initiating negotiations for the implementation of the fourth ROD. This negotiation involves work and costs valued at approximately $290 million, including an offer of $15 million in orphan share compensation.

Santa Monica MTBE Groundwater Contamination (Santa Monica, California): In June 1997, Region 9 and the Los Angeles Regional Water Quality Control Board issued joint enforcement letters to parties with ownership and/or operator responsibility for potential sources of methyl tertiary butyl ether (MTBE) contamination at the charnock Wellfield, a source of drinking water for Santa Monica. Coordination with California represents EPA's first enforcement action to address this new contaminant. MTBE is a listed CERCLA hazardous substance that has come into increasingly high volume use as a gasoline oxygenate pursuant to the CAA Amendments of 1990. In 1996, MTBE contamination forced the closure of two drinking water well fields (Arcadia and Charnock), which previously supplied 50 percent of the water for Santa Monica. The state is addressing the smaller Arcadia site in a separate action.

U.S. v. Fontana Wood Preserving, Inc. (California): On March 26, 1997, a partial consent decree was entered with two of the defendants in *U.S. v. Valley Wood Preserving, Inc.* Under the agreement, Fontana Wood Preserving, Inc., and Michael Logsdon have agreed to pay a total of $1.5 million in past and future costs for cleanup of the Valley Wood Preserving NPL site. The site is a 14.4-acre inactive wood preserving facility in Turlock, CA. EPA has been the lead agency for cleanup of the contaminated soils and groundwater since 1989. Cleanup is proceeding under a site-wide pilot study of in situ groundwater treatment.

U.S. v. Iron Mountain Mines, Inc. (California): EPA saw substantial progress at the Iron Mountain Mine site in FY97, including a series of significant court rulings in the cost recovery litigation, issuance of two administrative orders, and selection of the fourth ROD. In the first of the court's important rulings in December 1996, the court held that the defendant's counter-claims against the State of California were limited to recoupment claims.

In late September 1997, the court issued three very significant substantive rulings. In the first of these decisions, the court agreed with the U.S. that Rhone-Poulenc is the corporate successor to Mountain Copper, the company that conducted virtually all of the mining at Iron Mountain. The court also found that Rhone-Poulenc's predecessor, Stauffer Chemical Co., had expressly assumed the liability of Mountain Copper. In a separate opinion, the court agreed with the EPA interpretation of the narrow limitation in CERCLA §104(a)(3)(A) that the limitation does not apply if an EPA action incidentally captures naturally occurring substances. In addition, releases altered by mining are not naturally occurring. It is the PRP's burden to show that an action was taken in response to naturally occurring substances. In the last of the court's rulings in FY97, the court held that review of EPA's first two RODs will be limited to the record and based on an arbitrary and capricious standard.

In November 1996, EPA amended an administrative order to require the PRPs to use a more reliable and cost effective treatment method at the treatment plant at the site. Operation of the plant during the 1996-97 season demonstrated the effectiveness of the new treatment technology. In September 1997, Region 9 issued the fourth ROD for Iron Mountain and ordered the PRPs to implement the selected response action. The response action will capture and treat approximately two-thirds of the currently untreated releases of copper from Iron Mountain, which, combined with other response actions, will reduce site-wide metal loads by approximately 95 percent.

U.S. v. Montana Refining (Nevada): On August 28, 1997, the U.S. lodged a consent decree concluding the litigation for the Poly-Carb Superfund Site. Pursuant to the consent decree, Montana Refining Company, the sole generator in the case, will pay $665,000 in past costs. The owner\operators in the case are either bankrupt, defunct, or have no assets. The Poly-Carb facility was the site of a proposed waste conversion business in a sparsely populated area near Wells, NV. The sole generator, Montana Refining Company, shipped 9,000 gallons of phenolic caustic to the site, and on May 27, 1985, approximately 8,000 gallons of the caustic spilled from the holding tanks and contaminated 300 cubic yards of soil. EPA conducted a CERCLA removal action in late 1987 and later brought a civil action to recover its costs.

South Indian Bend Wash, Middlefield-Ellis-Whisman, San Gabriel Valley, and South Bay Asbestos Superfund Sites (Arizona and California): Region 9 completed five prospective purchaser agreements in FY97, each of which facilitated the redevelopment of properties at Superfund sites and provided for added resources to the Superfund cleanups. In the first prospective purchaser agreement, entered into in February 1997, the covenant not to sue will allow JPI Texas Development, Inc., to purchase approximately 27 acres located within the South Indian Bend Wash NPL Site for purposes of building and operating a 500-unit student dormitory near Arizona State University. A second portion of the property will be developed as a shopping mall, and six acres will be dedicated as a public park. JPI will pay $75,000 to EPA and will not abandon a monitoring well, saving EPA an estimated $25,000 in construction costs.

In April 1997, EPA concluded a prospective purchaser agreement for an 80-acre parcel formerly used for computer chip manufacturing. The parcel is the major source of groundwater contamination at the Middlefield-Ellis-Whisman NPL Site in Mountain View, CA. The developers plan to build and operate high-tech research and office facilities in a campus-like setting on the property. The prospective purchaser will pay $200,000 to EPA, enabling the Agency to continue sampling at a nearby monitoring well for an additional two years.

A July 1997 prospective purchaser agreement in the San Gabriel Valley Superfund Sites (Puente Valley OU) in Los Angeles, CA, allows the prospective purchaser, Ekstrom Properties, and lessee, Cardinal Industrial Finishes, to develop a vacant 11-acre parcel that is a significant source of groundwater contamination in the City of Industry. Cardinal intends to lease the property from Ekstrom and construct a low VOC-emission powder coatings manufacturing plant. As part of the agreement, Cardinal will pay $150,000 into a special account for EPA response actions in the Puente Valley OU.

In September 1997, Region 9 completed two agreements for the South Bay Asbestos NPL Site located in Alviso, CA, a low-income Latino community. The East Parcel agreement will allow Lincoln Property Company No. 2233 to purchase and develop a 17.5- acre parcel located in San Jose, CA. In consideration, Lincoln will pay a total of $125,000 and maintain the existing caps on the East Parcel; any excavation on the East Parcel must comply with the Soil Management Plan approved by EPA. The West Parcel agreement will allow Lincoln 237 Associates Limited Partnership to purchase and develop an adjacent 6.5-acre parcel located in San Jose, CA. In consideration, Lincoln will pay a total of $75,000. Lincoln plans to develop these parcels for research and development offices, as well as retail, light industrial, and restaurant uses, and estimates the creation of approximately 1,000 new jobs.

CLEAN AIR ACT

U.S. v. North American Chemical Company (California): On April 25, 1997, a consent decree was entered in this case for CAA violations. North American Chemical Company (NACC) owns and operates a nonmetallic mineral processing facility in Trona, CA, which consists of the Argus, Trona, and Westend plants. NACC violated PM emission limits in the California SIP for San Bernardino County. NACC also failed to comply with certain NSPS notice and testing requirements and PM limits. Finally, NACC constructed a modification to a gas turbine at the Westend facility that increased NO_x emissions over applicable "significance" thresholds. NACC failed to obtain a prevention of significant deterioration (PSD) permit for the modification and continued to operate the turbine without meeting a limit for NO_x achieved through implementation of BACT. (Alternatively, the U.S. alleged that NACC's gas turbine emitted NO_x in excess of an applicable SIP limit.)

The consent decree requires NACC to pay a penalty of $320,000 and to install emissions controls on the gas turbine to comply with the applicable SIP limit for NO_x. NACC's installation of selective catalytic reduction at the turbine will reduce NO_x emissions by at least 125 tons per year. The decree also requires NACC to expend at least $140,000 on a SEP. The SEP will reduce emissions of PM with a less than or equal to a nominal 10 micrometers (PM_{10}) at the facility by at least 30 tons. NACC is located in a nonattainment area for PM_{10}.

U.S., Unitek Environmental Services, and Unitek Solvent Services v. Hawaiian Cement: On September 15, 1997, a consent decree was lodged in the Hawaiian Cement case for violations of a fugitive dust emission limit in the Hawaii SIP. Hawaiian Cement owns and operates a Portland cement manufacturing plant in the Campbell Industrial Park on Oahu, HI. The conveyance, grinding, and storage of materials in the cement manufacturing process generate fugitive emissions of PM. Monitoring data collected between 1994 and 1996 demonstrated that Hawaiian Cement usually exceeded the SIP limit.

The consent decree requires Hawaiian Cement to pay a penalty of $1.16 million and to undertake facility-wide measures to reduce fugitive emissions and comply with the SIP. These measures include installation of enclosures around the finish mills and clinker storage building, engineering evaluations of control equipment, and monitoring for fugitive emissions. In addition, Hawaiian Cement will evaluate any offshore impacts of its fugitive dust emissions.

CLEAN WATER ACT

U.S. v. Appel (California): In April 1997, DOJ tried EPA's case against John Appel for discharging fill material (wastes from his tree-trimming business and substantial cubic yardage of earthen material) into the Ventura River in Ventura County, CA, without a CWA §404 permit. The court ordered Appel to implement the government's restoration plan and announced it would make a decision regarding a "significant" penalty within a month. Appel also was convicted in state court of a felony violation of the California Water Code for his activities. Appel appealed this 1995 conviction, but it was upheld by the California Court of Appeals and the California Supreme Court. EPA provided assistance and testimony in the state's criminal prosecution.

U.S. v. Berry Petroleum (California): In February 1997, a consent decree was entered in a CWA oil spill case against Berry Petroleum Company. EPA's §311 enforcement action was a significant part of a larger, multi-agency (federal and state) case that included all claims relating to the December 1993 spill of about 2,000 barrels of crude oil from an oil production facility into a wetland area located adjacent to McGrath State Beach, near Oxnard, CA. The crude oil also reached the Pacific Ocean and coated nearby beaches. The spill caused documented bird kills and damaged a sensitive wetland habitat. The spill was caused, in large part, from Berry's negligent failure to implement its SPCC Plan, in violation of EPA's SPCC regulations.

The consent decree resolved claims brought by EPA and several other federal and California state agencies. The decree required Barry to pay $800,000 in civil penalty for EPA's CWA §311 claims and additional civil penalties of $200,000 to the California Regional Water Quality Control Board for Porter-Cologne Act violations as well as $25,000 to the U.S. Fish and Wildlife Service (USFWS) for Endangered Species Act (ESA) violations. The decree further required Berry to reimburse various federal and state agencies $830,100 for response costs and damage claims arising out of the oil spill. Finally, Berry was required to transfer $1,315,000 to a trust that will be administered by the National Fish and Wildlife Foundation and used to implement long-term restoration measures under the supervision of the various natural resource trustee agencies.

U.S. v Pacific Gas & Electric Co. (California): On May 27, 1997, EPA, DOJ, and the State of California lodged a consent decree, settling a CWA case against Pacific Gas & Electric Co. (PG&E). Under the terms of the settlement, PG&E will pay $14,040,000, including $7.1 million in civil penalties to the state and EPA and over $6 million for environmental enhancement and restoration. The violations arose out of PG&E's incomplete and inaccurate reporting of data required in the mid-1980s to ensure that the Diablo Canyon cooling water intake system complied with CWA §316(b).

PG&E owns and operates the Diablo Canyon Nuclear Power Plant located on the central California coast near San Luis Obispo. This plant pulls in sea water for cooling its condensers and then discharges the heated water to the Pacific Ocean. It began operation in 1985 and has been regulated under two successive

NPDES permits issued by the Regional Water Quality Control Board for the Central District of California (Regional Board) in 1985 and 1990. The 1985 permit required submission of a report to demonstrate compliance with CWA §316(b) by May 1988. Although PG&E submitted a report in April 1988 purporting to demonstrate that the cooling water intake system complies with §316(b), it later was learned that PG&E omitted critical data from the report which may have altered its conclusions. PG&E's employees and contractors brought the omitted data to PG&E's attention in January 1992, yet PG&E failed to disclose the data to the regulating agencies until 1994.

The data PG&E omitted from its 1988 study called into question the accuracy of its sampling for entrainment. The routine entrainment sampling was conducted only at the discharge point rather than at the intake. This sampling may have dramatically understated the actual entrainment impacts by not accurately including the amount of organisms actually entering the intake system.

U.S. v. City of San Diego (California): On June 6, 1997, a stipulated final order was entered, settling long-standing enforcement action against the City of San Diego to address deficiencies with the city's sewage treatment facilities. The parties negotiated a consent decree lodged in January 1990, resolving injunctive relief issues. This decree engendered substantial controversy, and eventually was rejected by the court in 1994. During the pendency of the 1990 consent decree, San Diego implemented projects that resolved the pretreatment, sludge handling, and water quality standards violations, and partially addressed sewage spills issues. The court assessed a $3 million civil penalty; however, it suspended $2.5 million of this assessment on the condition that San Diego perform a water conservation project proposed by the Sierra Club, an intervenor. In 1994, Congress enacted legislation which allowed San Diego to apply for a waiver from CWA's secondary treatment requirements. In 1995, EPA approved the waiver, resolving that issue.

Following rejection of the consent decree in 1994, EPA and San Diego negotiated a stipulated final order (which functions as a consent decree) resolving the remaining issues in the case. The order requires San Diego to continue work on certain infrastructure projects called for in the 1990 consent decree. The order also requires San Diego to replace 200 miles of decaying concrete sewers. In addition, San Diego is required to audit its pump stations and force mains to identify potential problems; increase it efforts to reduce grease loadings to its system through public outreach and increased regulation of restaurants; and upgrade its data collection and modelling capabilities. The stipulated final order requires between $60 million and $200 million in new work (depending on the extent of concrete main replacement required). The projects in the order will cost the city over $1 billion.

U.S. v. Simpson Timber Co. and Simpson Redwood Co. (California): On April 25, 1997, a consent decree was entered, settling EPA's CWA §404 enforcement action against Simpson. The case involved the deep ripping of vernal pools at Simpson's Tehama Fiber Farm to prepare the soil for the planting of eucalyptus trees. The consent decree requires Simpson to pay a civil penalty of $30,000; perform SEPs worth $200,000; and preserve 3,690 acres of property containing extensive vernal pool complexes, mostly on off-site land which Simpson has purchased near the Tehama Fiber Farm. Under the agreement, Simpson may continue planting and harvesting trees on land that they had already deep ripped because, once deep ripped, vernal pools cannot be restored. The SEPs require Simpson to give $50,000 to the Nature Conservancy to purchase 80 acres of vernal pool habitat to augment the Conservancy's existing Vina Plains Preserve in Tehama County. In addition, Simpson is required to grant a permanent easement to the City of Albany, OR, to use a 132-acre tract of Simpson-owned wetlands on the Willamette River for a public park and wildlife conservation area.

EPCRA

Burns Philp Food, Inc., d/b/a Fleischmann's Yeast; Fresh Start Bakeries, Inc.; Haleakala Dairy; House Foods Hawaii Corporation, d/b/a Foremost Dairies-Hawaii; and Pint Size Corporation (Hawaii): On July 9, 1997, Region 9 concurrently filed five complaints and five CACOs resolving violations of EPCRA §312. The violations concerned five facilities in Hawaii (the Pint Size Corporation in Aiea; Fresh Start Bakeries, Inc., in Waipahu; House Foods Hawaii Corporation, d/b/a Foremost Dairies-Hawaii, in Honolulu; and two facilities in Kahului and Makawao operated by Haleakala Dairy, a Hawaii Limited Partnership) and the Burns Philp Food, Inc., d/b/a Fleischmann's Yeast, facility in Oakland, CA.

These cases were part of EPA's national EPCRA §312 Food Sector Enforcement Initiative. Under the initiative, EPA offered non-complying companies an opportunity to pay a reduced penalty in exchange for immediate compliance. Companies were invited to sign a §312 sector enforcement agreement, agreeing to immediately submit completed chemical inventory forms and pay a stipulated penalty of $2,000 per facility. Each of these companies signed such an agreement with Region 9.

Dreyer's Grand Ice Cream, Inc. (California): On April 16, 1997, EPA filed a CACO, resolving violations of EPCRA §304 and CERCLA §103 by Dreyer's Grand Ice Cream, Inc. (Dreyer). Under the terms of the agreement, Dreyer paid $41,000 in civil penalties. This enforcement action involved ammonia release incidents in 1993 and 1995. In 1993, Dreyer released approximately 4,000 pounds of anhydrous ammonia from its facility in Commerce, CA, and failed to notify federal and state responders for nine days. Dreyer also failed to provide follow-up information to the state. Dreyer had another ammonia release in 1995, and failed to notify the authorities for approximately six hours. During the pendency of this action, Dreyer initiated a new company practice for responding to ammonia release events. Dreyer will notify immediately the emergency response authorities concerning releases whenever Dreyer cannot immediately confirm that the release involves less than the reportable quantity.

Kraft Foods, Inc. (California): On March 5, 1997, EPA filed a CACO, resolving violations of EPCRA §304 and CERCLA §103 by Kraft Foods, Inc. (Kraft). This case involved an ammonia release incident at Kraft's facility in Tulare, CA. Under the terms of the agreement, Kraft paid a civil penalty of $10,000 and completed a $20,000 emergency planning and preparedness SEP.

Union Oil Company of California (California): On May 22, 1997, EPA filed a CACO, resolving violations of EPCRA §304 and CERCLA §103 by Union Oil Company of California (UNOCAL). This enforcement action involved releases of diethanolamine and hydrogen sulfide from the UNOCAL San Francisco Refinery in Rodeo, CA. In 1994, UNOCAL had two chemical release events at its San Francisco Refinery involving approximately 10,260 pounds of diethanolamine and 200 pounds of hydrogen sulfide. UNOCAL did not notify federal or state responders for several weeks. The UNOCAL civil penalty represents the largest penalty ever collected in EPA Region 9 for emergency release notification violations. UNOCAL paid $100,900 in civil penalties for the EPCRA violations and $274,100 for the CERCLA violations.

U.S. Valley Wood Preserving, Inc. (Turlock, California): On March 26, 1997, the Eastern District of California entered a partial consent decree with two of the defendants in *U.S. v. Valley Wood Preserving, Inc.* Under this agreement, Fontana Wood Preserving, Inc. and Michael Logsdon have agreed to pay a total of $1.5 million in past and future costs for remediation of the Valley Wood Preserving NPL site.

FIFRA

Scotts-Sierra Crop Protection Company (Ohio): On February 12, 1997, the judge granted EPA's motion for accelerated decision in this enforcement action brought under FIFRA. In July 1987, EPA began a Special Review, an administrative procedure used to determine whether the use of a pesticide, ethylenebisdithiocarbamates (EBDC), poses unreasonable risks to human health or the environment. EBDCs are a group of pesticides registered to protect a wide variety of fruit and vegetable crops against fungal pathogens. EBDCs also have several non-food agricultural uses, including ornamental plants, turf, and soil treatment. EPA began the review because it suspected ETU (a common degradate, metabolite, and contaminant of EBDCs) of being a potential cause of cancer, birth defects, and thyroid problems.

On March 2, 1992, EPA published in the Federal Register the Notice of Intent To Cancel and Conclusion of Special Review (hereinafter Notice) pertaining to all registrations of pesticide products containing EBDCs. Grace-Sierra, the predecessor in interest to Scotts-Sierra Crop Protection Company (Scott-Sierra), acknowledged receipt of the Notice by a copy of the Return Receipt dated March 13, 1992. Grace-Sierra, however, continued to sell its EBDC products until May 1993. On January 29, 1996, Region 9 issued an administrative complaint alleging 157 violations of FIFRA for the distribution or sale of an unregistered pesticide.

RCRA

Bureau of Indian Affairs (BIA) (Ft. Defiance); BOR (Yuma Desalting Plant); and National Park Service (NPS) (Hawaii Volcanoes National Park)(Arizona and Hawaii): In September 1997, Region 9 resolved administrative RCRA enforcement actions against three separate bureaus and services within DOI, including the BOR (Yuma Desalting Plant), BIA (Ft. Defiance) and NPS (Hawaii Volcanoes National Park). In each case, DOI agreed to implement significant SEPs and to pay a penalty. All three DOI facilities had RCRA violations related to storage of hazardous waste.

The Hawaii Volcanoes National Park agreement, approved on September 10, 1997, provides for a cash penalty of $41,100 and a SEP with an estimated total cost of $519,687. Under the SEP, NPS will develop a series of model plans for eventual use throughout the entire national park system. The model plans include a hazardous waste management plan and contract; an integrated contingency plan; a shooting range management plan; a hazardous materials management and pollution prevention plan; and a hazardous materials worker safety plan.

Under the terms of a September 29, 1997, consent agreement with BIA for violations at its Fort Defiance, AZ, facility, BIA will pay a cash penalty of $48,423 and perform three SEPs estimated to cost $617,699. The first SEP requires BIA to retain an independent consultant to conduct environmental compliance audits at approximately 100 BIA facilities throughout the Navajo Reservation. Under the second SEP, BIA will prepare standard operating procedures and contingency plans for the same facilities. The third SEP requires the BIA to provide HAZWOPER training to maintenance staff and faculty at schools throughout the Navajo Reservation.

The third DOI settlement resolved RCRA violations at the BOR Yuma Desalter in Arizona. Under this September 30, 1997, agreement, BOR will pay a cash penalty of $36,769 and perform two SEPs with an estimated total cost of $768,712. The first SEP requires BOR to retain an independent environmental consultant to conduct environmental compliance audits at six BOR facilities along the lower Colorado River. Under the second SEP, BOR will purchase equipment and work with state, local, and tribal governments to develop a hazardous substance spill response team for the lower Colorado River.

U.S. v. Hawaiian Western Steel (Hawaii): In August 1997, a consent decree was entered, resolving EPA's claims against Cominico Ltd., the last defendant in the Hawaiian Western Steel case. The consent decree provides for payment of a $425,000 penalty by Cominico. In addition, Cominico has agreed to perform the obligations of Hawaii Western Steel and the Cambell Estate under a prior decree if those entities do not perform their obligations properly and promptly. These obligations include conducting a RCRA Facilities Investigation and Corrective Measures Study and implementing the selected corrective measures. This settlement is particularly significant because the defendant is a foreign corporation that was a corporate "grandparent" of the company most directly involved in the violations. The case also is important in that the contamination may have affected people who fish and endangered species that live near the facilities.

CERCLA

Alaska Railroad Corp. (Alaska): On December 11, 1996, a partial consent decree was entered in *U.S. v. Alaska Railroad Corp., et al.*, settling EPA's claims for past costs and reimbursement of oversight costs related to cleanup at the Standard Steel & Metals Salvage Yard Superfund site in Anchorage, AK. The site was owned and operated by the Federal Railroad Administration until 1985 when the Alaska Railroad was transferred to the State of Alaska. In the settlement, the U.S. recovered $2.7 million of its past costs incurred in completing an emergency removal at the site. The partial consent decree contained an agreement by all defendants to reimburse Chugach Electric Association for the cost of the RI/FS, which it agreed to perform under an AOC with EPA in 1992, and to pay EPA's RI/FS oversight costs and all other response costs incurred by EPA. The partial consent decree also contained an agreement by the settling federal agencies and the Alaska Railroad Corporation to pay 64 percent of all future costs incurred at the Standard Steel site after issuance of the ROD.

On September 28, 1997, the U.S. filed an amended complaint and moved to lodge a RD/RA consent decree. The complaint amends the previous cost recovery complaint by adding a count for injunctive relief for performance of the cleanup at the site. The RD/RA consent decree settles the case by obtaining the agreement of the settling defendants to perform the RD/RA and long-term monitoring at the site at an estimated cost of $6.5 million. The settling defendants also agreed to reimburse EPA's oversight costs. EPA agreed to reduce its oversight costs by approximately $58,000, which represents the share of cleanup costs owed by Montgomery Ward & Co., a named defendant in the case, which filed for bankruptcy in June 1997.

Kerr-McGee (Idaho): Kerr-McGee Chemical Corporation (KMCC) agreed to perform the remedial action set forth in the ROD issued for the Caribou County, ID, site, and to pay all outstanding EPA past costs associated with the site, as well as all EPA future oversight costs associated with implementation of the ROD. The site is contaminated with phosphorus mining products, including vanadium. KMCC received the standard covenants, contribution protection, and other consideration granted by the model Superfund RD/RA consent decree.

Subsequently, KMCC sought an extension of time to eliminate its primary liquid waste stream in accordance with the ROD. In exchange for a deadline extension to meet the ROD-prescribed liquid source elimination, KMCC agreed in a stipulation to pay a civil penalty of $500,000 if the extended deadline is not met, and to waive any judicial review of the imposition of such civil penalty.

Northwest Pipe and Casing (Oregon): Northwest Pipe and Casing (NWPC) agreed to pay almost $3.2 million toward cleanup of the 53-acre Oregon site upon which it formerly conducted coating and manufacturing operations, which resulted in widespread polyaromatic hydrocarbon (PAH), PCB, and metal contamination of the site. The groundwater beneath the site contains elevated levels of vinyl chloride. Following receipt of EPA's Special Notice letter in 1995, NWPC filed an action in bankruptcy court, seeking a ruling that all of EPA's claims had been discharged in a bankruptcy action. Two other PRPs settled in 1997. Wayne Hall and the State of Oregon signed consent decrees requiring Hall to pay $1 million toward cleanup costs and turn his real property at the site over to the State of Oregon, which agreed to hold the property in trust for the future benefit of EPA. Negotiations with a fourth PRP, Northwest Development Company, are ongoing.

This case is a major accomplishment because the parties most liable for the contamination at the site will pay almost $4.2 million toward site cleanup. The settlements took over a year and a half to finalize, but are significant because they represent a diligent effort by the Agency to obtain a settlement with parties who previously claimed they possessed no ability to pay or had no liability for the site contamination.

South Tacoma Field (Washington): This case resolved EPA's claims for cost recovery and injunctive relief under CERCLA §§106 and 107. Pursuant to the consent decree, the settling

defendants paid the U.S. $2 million in past response costs, agreed to reimburse the U.S. for its future response costs, and agreed to perform a $17.3 million cleanup. The cleanup addresses lead contamination caused by the operation of a foundry and railroad repair yards. There were three important features to the settlement: 1) the settlement recognized an orphan share of $111,774; 2) the settlement trifurcated liability among three groups of settling defendants (within each group liability was joint and several); and 3) the settlement required each owner settling defendant to file an environmental protection easement and restrictive covenant that provided EPA with both future access to the site and the ability to limit future land/water uses within the site to activities consistent with the level of protection achieved by the implemented cleanup.

Teledyne Wah Chang Albany (Oregon): The consent decree in this case was entered in April 1997. The settlement is significant in achieving agreement with a PRP who consistently expressed a preference for a UAO and refused to pay EPA oversight costs related to an earlier UAO issued for remediation of sludge ponds. In this settlement, the defendant agreed to pay 100 percent of those past UAO oversight costs ($99,687), including interest. The cooperative working relationship achieved by the settlement is of great importance to the Agency in facilitating the cleanup at this complex, actively operating facility. Teledyne is one of only two facilities in the U.S. that produce zirconium metal.

Teledyne has agreed to: 1) design and implement the remedial actions selected in the RODs at a cost of approximately $7.5 million; 2) pay $154,000 to the U.S. in reimbursement of past response costs incurred at the site through September 30, 1993; and 3) reimburse the co-plaintiffs, the U.S. and the State of Oregon for 100 percent of past and future response costs incurred in connection with the site from October 1, 1993, until the RD/RA is completed. The RODs require remediation of on-site groundwater through extraction and treatment; excavation and disposal of PCB-contaminated sediments; creek bank stabilization to prevent further sediment contamination; excavation and offsite disposal of soil contaminated with radium; building restrictions for radon control, and the implementation of institutional controls, which will ensure that future land uses of remediated properties are consistent with the implemented cleanup.

CLEAN AIR ACT

Alaska Pulp Corp. (Alaska): On December 28, 1995, a complaint was filed against the Alaska Pulp Corporation (APC) alleging violations of the CAA federally-approved provision of the Alaska SIP limiting particulate emissions from APC's Sitka pulp mill. The complaint alleged that on at least 250 days between January 1, 1991, and September 30, 1993, average emissions from the APC Sitka pulp mill exceeded two pounds of PM per ton of pulp produced, in violation of the SIP. On January 17, 1997, an order was entered, settling the case for a civil penalty of $646,759 based on an economic benefit calculation of $634,759 and a gravity component calculation of $12,000. No injunctive relief was required because the pulp mill was closed in 1993.

Kalama Chemical, Inc. (Washington): On March 28, 1997, a consent decree was entered between EPA, Kalama Chemical (KCI), and the State of Washington's Southwest Air Pollution Control Authority (SWAPCA), resolving KCI's numerous violations of the benzene and asbestos NESHAPs and the NSPS under CAA. EPA alleged that KCI failed to comply with the equipment testing, leak monitoring and leak detection, and reporting requirements of the benzene NESHAP from 1984 to 1995, and also failed to comply with the initial notification, performance testing, and reporting requirements under Subpart NNN of the NSPS from 1991 to 1995. The decree requires KCI to comply with all applicable NESHAP and NSPS regulations and pay a penalty of $555,000 ($185,000 to be paid to SWAPCA). KCI also must perform six SEPs, including: 1) a pollution prevention audit; 2) a fugitive emissions audit; 3) installation of a regenerative thermal oxidizer on its vent streams to reduce CO and VOC emissions (which is expected to cut benzene emissions by 18 tons per year, toluene emissions by over four tons per year, and CO emissions by over 1,050 tons per year); 4) installation of a continuous emissions monitoring system (the compliance determination method to be used by KCI in its Title V permit) to measure emissions being released; 5) a tie-in of its benzene storage tank emissions into the existing carbon adsorption system; and 6) a tie-in of its toluene storage tank emissions into a condenser to control emissions. KCI's cost to perform these SEPs is $1,351,838.

Ketchikan Pulp Corp. (Alaska): Under the terms of a consent decree entered on January 22, 1997, the Ketchikan Pulp Corporation (KPC) agreed to pay a penalty of $259,000 for its violation of an EPA compliance order and for its failure to obtain a PSD permit, as required by CAA §165 and 40 CFR §52.21, before constructing a woodwaste burner at its sawmill on Annette Island, which is within the Metlakatla Indian Annette Island Reservation in southeast Alaska. KPC also agreed to dismantle its woodwaste burner.

Mapco Alaska Petroleum, Inc. (Alaska): On November 15, 1996, a consent decree was filed, resolving CAA violations against the Mapco Alaska Petroleum facility in North Pole, AK, (Mapco North Pole). A complaint was filed concurrently with the consent decree. The complaint alleged that Mapco North Pole violated 13 different requirements of the NSPS between 1977 and 1996. In settlement of the complaint, Mapco North Pole agreed to pay a civil penalty of $425,000 and to incur at least $689,000 in capital costs and $40,000 in annual operation and maintenance costs for two different SEPs at the facility. The projects are expected to reduce anticipated VOC emissions from the facility by approximately 18 tons per year.

CLEAN WATER ACT

BP Exploration, Inc. (Alaska): BP Exploration, Inc., operates a remote oil exploration and development facility located in the Beaufort Sea, AK. From January 1992 to October 1995, the facility violated its NPDES discharge limits for fecal coliform bacteria, BOD, TRC, pH, and flow. A letter notifying the facility of the violations and providing it an opportunity to explain the violations was sent in March 1996. In July 1996, Region 10 issued an administrative complaint proposing a penalty of $59,500. In October 1996, the facility and EPA settled the complaint for the full amount of the proposed penalty.

Jerome Cheese Co. (Idaho): An administrative complaint was filed in 1995 against Jerome Cheese Co. for alleged violations of the pretreatment standards. Specifically, the region alleged that Jerome Cheese caused interference and pass-through by discharging excessive amounts of waste whey into the City of Jerome's POTW, which led to an upset of the POTW and subsequent violations by the POTW of its NPDES permit. The upset was so significant that it took almost two weeks for the city to regain control of its treatment system after the company's spill of whey. Jerome Cheese agreed to pay a penalty of $40,000 after submitting to alternative dispute resolution mediated by an EPA ALJ.

FIFRA

Precision Helicopters, Inc. (Oregon): In its April 17, 1997, complaint, EPA charged Precision Helicopters, Inc., with three FIFRA violations based on the respondent's aerial application of the herbicide Riverside 2,4-D in a manner inconsistent with its labeling. The herbicide's label requires applicators to keep unprotected persons and pets out of treated areas until sprays have dried. The area sprayed is in a known hunting area in Eastern Washington frequented by duck hunters, pheasant hunters, and others. The helicopter pilot admitted seeing hunters and dogs in the area shortly before the aerial application. In addition, the herbicide was applied in a much higher concentration than prescribed by the label.

This case originated with the Washington State Department of Agriculture. It was referred to EPA after the state received heavy criticism in the media for its handling of the investigation. EPA conducted a thorough investigation, issued a complaint, and quickly resolved the case. EPA obtained a penalty of $1,500, the maximum fine allowed for a first offense by a for-hire applicator. This case has led to increased communication between EPA and the Federal Aviation Administration (FAA) with respect to FIFRA violations involving aerial application.

RCRA

Fort Richardson and Fort Wainwright (Alaska): On April 29, 1994, EPA issued RCRA §3008(a) complaints and compliance orders to these two Army bases in Alaska. The complaints were issued as a result of inspections conducted the previous year by EPA and the Alaska Department of Environmental Conservation (ADEC). The complaint issued to Fort Richardson sought a civil penalty of $1,337,332 for twelve violations and the complaint issued to Fort Wainwright sought a civil penalty of $659,450 for six violations. The complaints alleged improper storage of hazardous waste, storage of hazardous waste without a permit or interim status, failure to maintain proper records, and violations of land disposal restriction (LDR) requirements contained in

Subchapter III of RCRA and the regulations promulgated thereunder.

On November 15, 1996, the Army and EPA signed a CACO to settle the enforcement actions for both facilities. The CACO required the Army to pay a $200,000 civil penalty and perform two SEPs. The SEPs required the Army to spend a total of $1.3 million to build a state-of-the-art hazardous waste training center at Fort Richardson and to install hazardous waste storage lockers at Fort Richardson and Fort Wainwright.

U.S. Coast Guard (Alaska): On July 12, 1995, EPA filed an administrative complaint against the U.S. Coast Guard in Kodiak, AK, alleging three RCRA violations. The first count alleged failure to comply with an existing federal facility compliance agreement by failing to implement a groundwater monitoring program at the "Laundry Unit" of the facility. The second and third counts alleged storage of hazardous waste in two waste piles without a permit or interim status. The penalty assessed in the complaint was $1,018,552. After extensive settlement discussions, on January 22, 1997, a consent agreement was entered which required the respondent to pay $602,260 in civil penalties. As a result of this action, the two waste piles, with a combined total of 359 cubic yards of lead-contaminated debris, were contained.

TSCA

Asbestos Services International (Oregon): On August 18, 1997, EPA suspended its approval of five Asbestos Services International (ASI) courses because of the willfulness of the violations and the importance of proper training for the protection of public health, safety, and the environment. The suspension will last until August 18, 1998, or until ASI provides EPA with full access to all required records, whichever is later. ASI has requested a hearing on the suspension.

During the May 1996 audit, EPA requested and was refused access to ASI's records. On April 10, 1997, and June 18, 1997, EPA requested access to these records or copies of them. ASI either failed to respond or inadequately responded to these requests. Failure to provide reasonable access to records; failure to submit required information or notifications in a timely manner; failure to maintain requisite records; and failure to adhere to the training standards and requirements of the MAP are the violations which form the basis for suspending or withdrawing approval from accredited training programs.

NBA Environmental (Idaho): On September 24, 1997, Region 10 suspended until June 1998 its accreditation approval under the AHERA Revised Model Accreditation Plan (MAP) for the contractor supervisor basic course provided by Neil Allen, d/b/a NBA Environmental in Idaho Falls, ID. The bases for the suspension of this training course were: 1) failure to obtain EPA approval prior to using instructors in the initial supervisor/contractor courses and continued use of an unapproved instructor, even after being ordered by EPA to stop using that instructor; 2) failure to submit to EPA in advance the name and qualifications of all instructors to be used in the January 1997 supervisor/contractor course; 3) failure to provide EPA with reasonable access to NBA Environmental's training and accreditation records; and 4) a history of noncompliance, including failure to revise the supervisor/contractor instructional materials and student manual to meet the revised MAP requirements prior to the December 1995 supervisor/contractor course, despite sending EPA a self-certification on April 8, 1994, indicating that all of NBA Environmental's courses complied with the revised MAP requirements.

Louisiana Pacific Corp. (Oregon): On December 16, 1996, Region 10 filed an administrative complaint alleging that, in 1991, Louisiana Pacific (LP) violated PCB notification, marking, storage, disposal, and manifesting regulations at its Harris Pine Mill facility in Pendleton, OR. On December 16, 1996, the region also filed a CACO, assessing a $200,000 penalty against LP for the alleged violations. The CACO was negotiated prior to the filing of the complaint as part of the resolution of a criminal case against LP and its contractor, Quin Million, in which Million pled guilty to criminal violations of TSCA. In the CACO, LP agreed to clean up any PCB releases discovered as a result of the improper disposal of LP's PCB equipment by Million.

MULTIMEDIA

Tesoro Alaska Petroleum Co. (Alaska): On September 11, 1997, the regional administrator signed a CACO resolving an administrative complaint brought under CWA §309(g) and RCRA §3008(a). The complaint alleged that Tesoro violated certain effluent limitations of its NPDES permit and failed to report a release from its oily water sewer system as required by its RCRA post-closure permit. Tesoro agreed to pay $100,000 to resolve the NPDES violations and $35,000 to resolve the RCRA claims.

FIFRA

Hasbro, Inc.: Under a consent agreement, Hasbro, Inc., manufacturer of Playskool® toys, stopped making false claims that toys treated with an antibacterial pesticide protect children from infectious diseases. The plastic toys are manufactured with the antibacterial pesticide Microban®, with an active ingredient, triclosan. Microban® is registered by EPA as a pesticide to inhibit bacterial growth in plastic but has not been approved for public health claims. Labels and advertisements for the toys suggested that the treatment protects children from health risks, when in fact it protects only the plastic in the toy from disintegration. Hasbro, Inc. agreed to revoke earlier claims, correct the information through advertisements in various print media appropriate store and toy placarding, and pay a penalty of $120,000. The company took immediate steps to inform the public, including relabeling or repackaging all affected toys, and publishing large advertisements in national magazines. The collective value of the actions that Hasbro will take are estimated to be well in excess of $1 million.

RCRA

Chief Supply Corporation, Inc. (Oklahoma): EPA issued two RCRA §7003 imminent hazard orders to the Chief Supply Corporation, Inc., located in Haskell, OK, following an explosion and fire that killed one worker and caused the evacuation of surrounding residents. The facility collects and stores hazardous and industrial waste, blends hazardous wastes for fuel, and recycles hazardous wastes. The fire consumed approximately 1,450 drums of hazardous waste stored at the facility. The first order prohibited the operation of the facility until safety and hazardous waste management measures were in place. The second order required Chief to install, operate and maintain air quality monitoring stations, and perform air emission source testing for all active air emission sources. EPA's action followed the state's unsuccessful attempt to issue a preliminary injunction preventing Chief from restarting operations. Collectively, the orders ensure that Chief will operate its facility safely and protect its workers and the surrounding community.

Harmon Electronics, Inc. (Missouri): The Environmental Appeals Board (EAB) issued a final order to Harmon Electronics, Inc. and a $586,000 RCRA penalty for mismanagement and illegal dumping of hazardous waste. Harmon operates a facility in Missouri that assembles control and safety equipment for the railroad industry. The facility used hazardous solvents (e.g., toluene, xylene) to remove flux from circuit boards. The State of Missouri determined that Harmon improperly manages hazardous waste (e.g., by periodically dumping wastes outside the facility) and operates without a permit. The Missouri Department of Natural Resources entered into an agreement with Harmon that resolved the state's claims, but assessed no penalty. Region 7 informed the state that EPA considered the violations a high priority and that the State should impose penalties. Subsequently, EPA filed a separate RCRA administrative enforcement action against Harmon that resulted in the favorable initial decision for EPA. Harmon appealed the initial decision, but the EAB found in favor of the Agency, including holding that RCRA provides the Agency with independent authority to take action when warranted.

TSCA

Newell Recycling Company, Inc.: Newell Recycling was found liable for improper disposal of PCB-contaminated soil (containing concentrations in excess of 50 ppm). On October 7, 1997, the ALJ assessed the company more than $1.2 million, the largest TSCA penalty ever awarded by an ALJ.

MULTIMEDIA

Marine Shale (Louisiana): The U.S. and the State of Louisiana lodged a final consent decree with Marine Shale Processors, Inc. (MSP) and Southern Wood Piedmont (SWP), resolving one of the largest and most difficult multimedia cases ever brought by the federal government. Before it was shut down by the government, MSP was the largest hazardous waste incinerator in the country. Beginning in 1985-86, MSP illegally accepted hundreds of different hazardous wastes from around the country to burn its incinerator system. After MSP burned the waste, the facility attempted to sell the resulting hazardous ash

to the public as a "recycled product" for $1 a ton. The U.S. filed the initial complaint in 1990, and expects the consent decree to be entered during FY98. The settlement also involves a potential purchaser of the MSP facility, GTX Inc., which plans to purchase the assets and liabilities of MSP. GTX plants to make this purchase after it obtains the necessary permits to operate the MSP facility safely. Under the settlement, GTX and the defendants will undertake injunctive relief to clean up the various sites, an estimated cost of $10 to $15 million. In addition, they will pay approximately $9 million in civil penalties to the state and federal governments.

U.S. v. Attique Ahmad (Southern District of Texas): On September 8, 1997, the court sentenced Mr. Attique Ahmad to serve one year in prison and pay the State of Texas $27,487 in cleanup costs for illegally dumping 4,690 gallons of gasoline into the Conroe, TX, storm and sewer systems on January 25, 1994. Ahmad, the former owner of the Spin-N-Market gasoline station in Conroe, pleaded guilty to pumping gasoline into the storm drain and sewer systems from a leaking UST. The gasoline created an imminent danger of explosion, forced the evacuation of children from two schools and caused the shutdown of the Conroe sewage treatment plant. The spill also contaminated Possum Creek, which empties into Lake Houston, a major source of drinking water for the City of Houston.

U.S. v. BFI Services Group (Eastern District of Pennsylvania): On July 18, 1997, the court ordered BFI Services Group, to pay a fine of $3 million and to pay $642,311 to four publicly-owned treatment facilities. In addition, the company also must make remedial restitution of $1.5 million to programs or organizations that address environmental concerns in southeastern Pennsylvania and northern Delaware. The defendant previously pleaded guilty to charges arising from the illegal disposal of millions of gallons of a mixture of raw sewage, grease, and treated wastewater sludge which was sent to five POTW plants in southeastern Pennsylvania and northern Delaware after it had been identified falsely as containing only raw sewage. All six defendants plead guilty to various charges contained in the 23-count indictment for conspiracy, mail fraud, and CWA permit violations, and will be sentenced in FY98. BFI Services previously paid a $1,024,546 civil penalty and $575,454 in restitution to the fifth treatment plant.

U.S. v. Child Safe Products Corp. (Eastern District of New York): On August 29, 1997, Child Safe Products Corp. of Hicksville, NY; Ralph L. Guercia, Child Safe's President; and Joseph Guercia, a Child Safe salesman/general manager, all pleaded guilty to one count of illegally disposing of hazardous waste. Child Safe Products Corp. supplies and installs safety surfaces for tennis courts and playgrounds. The defendants admitted to abandoning over 100 55-gallon drums of waste paint materials containing toluene, benzene, and xylene in a stolen trailer that was discovered in New Jersey in 1994. When sentenced, Child Safe faces a maximum of $500,000 in fines. The two other defendants each face maximum sentences of up to five years in prison and fines of up to $250,000.

U.S. v. Cooper (Southern District of California): On May 23, 1997, Gordon Cooper was sentenced to serve 51 months in prison followed by three years supervised probation for conspiracy, CWA violations, and wire fraud. On February 28, 1997, Cooper, and his company, Chino Corona Farms, Inc., were found guilty on all charges for falsely billing the City of San Diego for services and for dumping sludge at an unapproved location. Co-owner of the company, Robert Vaughn, pleaded guilty to one CWA count and was sentenced to six months confinement, five years probation, and a $50,000 fine. Cooper and Vaughn had contracted with the city to compost its waste sludge from the Point Loma Wastewater Treatment Plant on the Torrez-Martinez Indian Reservation in Riverside County, CA. Instead, Cooper and Vaughn stockpiled the material on tribal land until it became a 200,000-ton nuisance nicknamed "Mount San Diego." Cooper and Vaughn also shipped sludge to Mexico for disposal and to a farm in Imperial County, CA, for land application without the approval of the appropriate state authorities. In addition, they falsified billing information and over-charged the city by approximately $2 million.

U.S. v. Noble Cunningham (Northern District of Georgia): On September 19, 1997, Mr. Noble Cunningham of Mansfield, OH, was sentenced to four years and eight months in federal prison and ordered to pay $147,716 in restitution for cleanup costs to Thomas Mimms and $10,000 in restitution to the Westview Sanitary Landfill in Atlanta, GA. Cunningham was convicted on May 15, 1997, on four felony counts of violating RCRA. Cunningham was the operator of R&D Chemical Company, which illegally stored over 600,000 pounds of hazardous barium chromate sludge on a farm near Mansfield, OH. When the Ohio EPA undertook an administrative action, Cunningham illegally transported the sludge to Rose Laboratories, Inc., in Brookhaven, GA, where most of it was abandoned on

Thomas Mimms' property. Some sludge also was dumped at the Westview Sanitary Landfill.

U.S. v. Darling International, Inc. (District of Minnesota): On July 10, 1997, Darling International, Inc., of Irving, TX, was sentenced to pay a $4 million fine after pleading guilty to five felony counts of violating CWA. The company illegally discharged wastewater into the Blue Earth River, diluted wastewater samples, and falsified reports to the Minnesota Pollution Control Agency to cover up illegal discharges from its Blue Earth Rendering Plant in Blue Earth, MN. $1 million of the fine potentially may be used for improvement of the Blue Earth River, and $300,000 will be remitted for civil penalties. Two plant employees pled guilty to related charges and a third employee was convicted after a jury trial.

U.S. v. Eklof Marine Corp. (District of Rhode Island): On September 25, 1997, Eklof Marine Corp. of Staten Island, NY; its subsidiaries Thor Towing Corp. and Odin Marine Corp.; Leslie Wallin, Eklof's President; and Gregory Aitken, captain of the tug *Scandia*, all pleaded guilty to federal and Rhode Island State criminal charges. The charges arose from a spill of 826,000 gallons of home heating oil from the oil barge *North Cape*. The spill occurred on January 19, 1996, when the barge ran aground while it was being towed by the *Scandia* in a storm off Matunuck, RI, causing significant damage to marine creatures and wildlife. Eklof, Thor, Odin, and Wallin admitted that both the tug and the barge were equipped improperly to safely navigate stormy waters that day. The agreement calls for the companies to pay a $3.5 million federal fine, a $3.5 million state fine, $1.5 million to the Nature Conservancy to buy land for conservation purposes, and $1 million for remedial safety measures. Wallin and Aitken could be sentenced to spend up to one year in prison and fined up to twice the cost of the losses caused by the spill.

U.S. v. Raymond Feldman (Eastern District of Missouri): On April 25, 1997, Raymond Feldman, owner of Ray's Automotive in St. Louis, MO, was sentenced to 37 months in federal prison for his conviction on one felony count of the unlawful disposal of hazardous waste and one felony count of conspiring to unlawfully transport and dispose of hazardous waste in violation of RCRA. In addition, Feldman must pay restitution in the amount of $40,000 to the Missouri Department of Natural Resources, $35,000 to the EPA, and up to an additional $90,000 for any further cleanup expenditures by either agency. In May and June 1996, Feldman hired Jack Delmar Dunn and Pamela Naomi Fox, two unindicted co-conspirators, to dispose of over 200 55-gallon drums and other containers of ignitable, lead-bearing hazardous paint wastes. Sixty-three of the drums, which Feldman had stored illegally in a lot next to his facility, were dumped along a levee road near the McKinley Bridge over the Mississippi River.

U.S. v. Four Star Chemical (Southern District of California): On December 9, 1996, Four Star Chemical Co., a Los Angeles importing firm, was sentenced to a fine of $75,000 as a result of its federal felony conviction for smuggling CFC-113, an ozone layer depleting chemical, into the U.S. The company also forfeited $100,000 in illegal profits earned from this smuggling scheme, and the IRS filed a civil claim of $243,000 for unpaid taxes on the smuggled goods. The smuggling was discovered on July 21, 1995, when U.S. Customs Service agents seized a shipment of 49,000 pounds of CFC-113 imported into the U.S. from China. Four Star Chemical declared that it possessed unused CAA allowances, but EPA reported that Four Star did not possess any allowances.

U.S. v. Greenwood (District of South Dakota): On November 18, 1996, Ronald E. Greenwood and Barry M. Milbauer, the former manager and assistant manager of John Morrell and Company's wastewater treatment plant located in Sioux Falls, SD, each were sentenced to six months home confinement, a $1,000 fine, and 100 hours of community service. In addition, the court ordered Greenwood to pay $5,000 in restitution and Milbauer $3,000 in restitution to the Big Sioux River Environmental Trust Fund. In January 1995, Greenwood and Milbauer pleaded guilty to conspiracy to violate CWA by illegally discharging wastewater from the Morrell wastewater treatment plant into the Big Sioux River in violation of Morrell's discharge permit; the falsification of monitoring reports; and conspiracy to hide these illegal acts for eight years. The Morrell Company was fined $2 million and ordered to provide $1 million for environmental restoration.

U.S. v. Roy Hart (District of Utah): On June 16, 1997, Roy Hart, former owner of North American Environmental (NAE), Inc., of Clearfield, UT, was sentenced on one count of violating RCRA. Hart

must serve six months home confinement with work release authorization and three years probation, and pay $1,347,922 in restitution to the private parties who cleaned up abandoned PCB waste at the NAE facility in Clearfield. In December 1990, Region 8 officials notified NAE that it had lost interim status to operate as a commercial PCB storage facility. NAE was directed not to accept any further waste and was told to dispose of the existing PCB waste within 30 days. NAE continued to accept PCB waste for storage after the 30 day period had expired and did not dispose of the waste already stored at its facility. Additionally, NAE claimed financial inability to comply with EPA's directives and subsequently its Clearfield PCB storage site was abandoned. In a July 1991 inspection of NAE's facility, EPA found an estimated one million pounds of PCB oil and debris and hazardous wastes stored in drums, and then conducted a cleanup operation.

U.S. v. Hess Oil Virgin Islands Corp. (Southern District of New York): On December 10, 1996, Hess Oil Virgin Islands Corporation (HOVIC), the refining arm of Amerada Hess Corporation of Woodbridge, NJ, and New York, NY, agreed to pay a total of $5.3 million in fines and restitution when it entered a plea of guilty to felony charges of violating RCRA by illegally transporting hazardous waste. Between December 11, 1991, and February 9, 1992, HOVIC falsely declared that 1,402 55-gallon drums containing 617,980 pounds of spent refinery catalyst contained non-hazardous waste. HOVIC then knowingly shipped the drums to Arizona, where the catalyst was used as a source of alumina in the manufacture of Portland cement. In reality, some of the drums contained benzene levels of 43.4 ppm, which is more than 85 times the regulatory limit.

U.S. v. Hanousek (District of Alaska): On May 21, 1997, Edward Hanousek, a railroad supervisor for the White Pass & Yukon Railroad, was sentenced to serve six months in prison, serve six months in a half-way house, and pay a $5,000 fine for his CWA conviction for the negligent discharge of oil from a company pipeline in October 1994. On October 1, 1994, Hanousek was supervising the illegal removal of rock from U.S. Forest Service land near the pipeline when a piece of construction equipment struck the pipeline, causing a 14-inch crack and the subsequent discharge of oil into the Skagway River.

U.S. v. Jones (Northern District of West Virginia): On March 12, 1997, Billy Joe Jones was sentenced to 27 months imprisonment and two years of supervised release following his conviction for knowingly allowing sewage to bypass the treatment facility; discharging approximately 65,000 gallons of raw sewage into the Ohio River in the fall of 1992; and falsifying wastewater analysis reports.

U.S. v. Kilgore (District of Northern Ohio): On September 8, 1997, Lutellis Kilgore of Elyria, OH, was sentenced to 37 months in prison and two years of supervised release after Kilgore pleaded guilty to violating FIFRA by illegally applying the insecticide methyl parathion to over 60 properties in Lorain and Elyria, OH. Kilgore was not a certified methyl parathion applicator, and his actions led to a $20 million, publicly-funded cleanup of the affected residences in Lorain and Elyria, OH, conducted by the EPA, the Ohio Department of Agriculture, and the Health Departments of the Cities of Lorain and Elyria.

U.S. v. Knight (Northern District of West Virginia): On January 6, 1997, Bentley Mathers Knight was sentenced to two years probation and ordered to pay a $500 fine pursuant to pleading guilty to a one-count federal felony indictment for knowingly making false statements on laboratory analysis reports required under CWA. Knight, a former laboratory technician employed by the City of New Martinsville, falsely reported laboratory analyses for TSS, fecal coliform, and BOD of wastewater discharged by the New Martinsville wastewater treatment plant into the Ohio River.

U.S. v. LeFave (Southern District of California): On October 25, 1996, Gene M. LeFave, former CEO of Fluid Polymers, Inc., of Las Vegas, NV, was sentenced to four years in prison and one year supervised release for his conviction for illegally dumping hazardous industrial waste in the newly created East Mojave National Preserve and on lands administered by the Bureau of Land Management (BLM) between April 1, 1995, and August 15, 1995. The court ordered LeFave and the corporation to reimburse $25,783 to the NPS and $14,108 to the BLM for cleanup costs. Fluid Polymers, Inc., which manufactures chemicals, was sentenced on October 17, 1996, and fined $10,000.

U.S. v. Mann (District of Colorado): On August 28, 1997, Robert Mann, former mill supervisor at a Louisiana-Pacific Corporation manufacturing facility in Olathe, CO, pleaded guilty to conspiracy to violate

CAA. Mann admitted to conspiring to tamper with air emissions control equipment and conspiring to falsify emission report data to state and federal regulators to maximize production in 1991 and 1992. In the process, he concealed emissions of sulfur dioxide, methlyne dioxyisocyanate, and formaldehyde that exceeded the facility's discharge permit, causing health problems for numerous local citizens.

U.S. v. McCrary (Eastern District of Texas): Edward W. McCrary III, of Baton Rouge, LA, was sentenced on May 9, 1997, to serve ten months in federal prison for violating the conditions of his supervised release. McCrary previously served 27 months for one count of illegally discharging pollutants in violation of CWA and one count of conspiracy. After McCrary's release from prison, special agents of EPA and Special Investigators of the Texas Natural Resource Conservation Commission (TNRCC) reported to the court that McCrary was engaged in the business of selling contaminated solid waste toluene, a hazardous waste, to gasoline blenders or manufacturers without prior court approval. This contaminated toluene contained approximately five percent hexamethyl disiloxane (HMDO), which forms ash deposits in automobile engines that make spark plugs inoperative. Automobile owners have made more than 400 claims for engine damage, which they claim was the result of using gasoline made with the contaminated toluene.

U.S. v. Ray McCune (District of Utah): On October 7, 1996, Ray McCune, president and owner of Reclaim Barrel Supply Company and Allstate Container Company, was sentenced to 18 months in prison and ordered to pay a $20,000 fine and $100,000 in restitution for the illegal storage of hazardous waste at both facilities. His co-defendant, Plant Manager Bruce Jones, was sentenced to 18 months probation and a fine of $2,000 on September 13, 1996. This was the first federal environmental felony prosecution in Utah which resulted in a prison sentence for a defendant. McCune's business specialized in reconditioning 55-gallon drums. During the reconditioning process, McCune collected corrosive and ignitable wastes at the Reclaim Barrel Supply Company from May 1992 to August 1993 and at Allstate Container Company from March 1993 to April 1994. In addition, he illegally discharged pollutants into the sewer at Allstate Container from May of 1993 through June of 1993. In May 1992, McCune abandoned thousands of drums at the Reclaim Barrel facility. A cleanup conducted by EPA at Reclaim Barrel cost nearly $1 million. This criminal enforcement action represented the first case in Utah where a criminal sentence was imposed for environmental crimes.

U.S. v. Midstream Holding Corp. (Middle District of Louisiana): Midstream Holding Corporation of Baton Rouge, LA, was ordered to pay a $60,000 fine and serve two years probation on July 18, 1997, after pleading guilty to one count of violating CWA. Midstream provides fueling and waste disposal services to vessels on the Mississippi River. From approximately 1992 to 1995, the company was illegally dumping bilge slop containing waste oil and other wastes into the Mississippi River. The discharges came from the Midstream Fuel Service, Inc., facility in Baton Rouge.

U.S. v. Moore (Southern District of West Virginia): On December 16, 1996, Denny Moore was sentenced to 21 months in prison for his conviction on four counts of violating CWA. In April 1994, Moore abandoned the sewage treatment plant and allowed raw sewage to be discharged from the treatment plant at the Shady Woods subdivision near Muncy, WV, into Pigeon Creek.

U.S. v. Refrigeration USA (Southern District of Florida): In the largest recovery ever in a criminal case for smuggling CFC refrigerants prosecuted under CAA, Refrigeration USA of Miami and Hallandale, FL; Roland Wood of North Miami, FL, the company's president; Diane McNally of Miami, FL, Refrigeration's bookkeeper, and Lisa Salazar of Pembroke Pines, FL, an import-export clerk at Refrigeration USA, all pleaded guilty on May 28, 1997, to various federal violations. Their crimes arose from smuggling over 4,000 tons of the ozone-depleting refrigerant gas CFC-12. The three individuals each pleaded guilty to conspiring with others to import CFC-12 without consumption allowances required by CAA. The scheme involved filing false documents with the U.S. Customs Service, EPA, and the IRS. The corporation pleaded to 129 felony counts. The plea agreement requires the immediate surrender of over $4.47 million in cash being held in offshore accounts; the forfeiture of real estate in Miami, FL, and London, England, valued at over $3.4 million; forfeiture of stock in a domestic bank; and surrender to the government of 11,200 30-pound cylinders of CFC-12 which have a current market value of $6.72 million. Each of the three

defendants faces maximum sentences of up to five years in prison and/or fines of up to $250,000 or twice the gain or loss caused by their criminal conduct. The company faces possible fines of up to $500,000 on each felony count, as well as restitution. In addition, all defendants can still be held liable for the unpaid excise taxes on the smuggled CFC-12 which are due to the IRS.

U.S. v. Terry Rettig (Eastern District of Virginia): On January 16, 1997, Terry L. Rettig of Virginia Beach, VA, was sentenced to serve 30 months in federal prison and serve one year of supervised release for his felony conviction for violating CWA. Mr. Rettig was the former wastewater treatment plant operator for two meat-packing plants owned by Smithfield Foods, Inc., and three other wastewater treatment plants, all of which are located in southeastern Virginia. In October 1996, Rettig pleaded guilty to 23 counts of violating the CWA, admitting he failed to perform required water sampling and analysis, discharged wastewater in violation of discharge permit limits, and falsified discharge monitoring reports and laboratory data for all five treatment plants. These acts led to the discharge of high levels of fecal coliform bacteria into the Pagan River, which empties into the James River and ultimately the Chesapeake Bay.

U.S. v. William Ries et. al. (Northern District of Iowa): William Ries and John Hirsch of Dubuque, IA, and Michael Sandidge of St. Paul, MN, were each sentenced to 30 days confinement with work release privileges, one year supervised release, and a fine of $1,000 plus interest for their guilty pleas to one count of violating the Rivers and Harbors Act. The defendants admitted to knowingly dumping refuse including coal, fertilizer, salt, and grain into the Mississippi River at Dubuque, IA, without a discharge permit. All three were employees of Newt Marine Service, Inc., a Dubuque barge cleaning company.

U.S. v. Royal Swift and U.S. v. J. and M. Devine Corp. (District of Massachusetts): In 1995, Royal Swift, the dispatcher for A-1 Sanitation (formerly known as J. and M. Devine Corp.) in Halifax, Massachusetts, dumped a solvent-laced load of septic tank waste at the Wareham, MA, treatment plant after lying to plant workers about the nature and source of the waste. The solvents caused a major plant upset, including killing half of the biological population in the treatment system. The POTW staff prevented the discharge of the solvent to the Agawam River, but sampling and managing the volatile pollutant posed a serious threat to plant workers in the process.

In January 1997, Royal Swift pleaded guilty to providing false information to the plant. In April 1997, he was sentenced to eight months incarceration and 36 months probation. A-1 Sanitation pleaded guilty to knowingly violating CWA by discharging waste which created toxic gases, vapors or fumes and threatened POTW workers. In addition, A-1 was required to publish a description of its conviction and an apology in two national trade publications and a local newspaper. A-1 also paid approximately $10,000 in restitution to Wareham POTW, agreed to pay a $30,000 criminal fine, and has developed a training program and office protocol for preventing future toxic discharges.

U.S. v. Rudd (Eastern District of Texas): On July 10, 1997, Thomas R. Rudd, former president of Striping Technology, Inc. (STI), was sentenced to 15 months in prison following his June 1996 guilty plea to one count of violating RCRA. STI is the largest pavement, road, and highway-striping contracting business in Texas. Rudd directed his employees to bury hundreds of barrels of paint wastes contaminated with toluene, methyl ethyl ketone, and waste lead in pits, which were dug deeply enough to reach groundwater flowing into a nearby tributary of Black Fork Creek. The investigation found that contaminated paint wastes also were disposed of illegally at four other locations. Rudd agreed to bear the costs of the cleanup at all five locations, which so far have totaled more than $400,000. He also agreed to create a trust fund in the amount of $250,000 to benefit the East Texas Ecological Education Center.

U.S. v. James Scalise and Frey Manufacturing, Inc. (District of Connecticut): A Connecticut lawyer, James Scalise, owned an electroplating business, Frey Manufacturing Company, Inc. In addition to his legal practice. On May 2, 1997, Scalise was sentenced to six months of home confinement, three years probation, and a $15,000 fine. The company was sentenced to five years of probation and a $25,000 fine. Two months later, Scalise was suspended from the practice of law for two years by the Connecticut Legal Grievance Committee for his role in the environmental criminal violations. The criminal charges were three CWA felonies stemming from illegal discharges of electroplating wastes into the New Britain, CT, sewage system. The counts

concerned discharges without a state permit, discharges of cyanide and acid in violation of CWA regulations, and the failure to submit required periodic monitoring results.

Scalise and Frey were advised on numerous occasions by state inspectors to install necessary equipment and apply for a pretreatment permit. Scalise was also informed that acid and cyanide combine to cause a deadly gas. In response, Scalise and Frey did nothing. In addition, the company was sent an information request under the CWA and failed to respond when required. A subsequent EPA administrative order concerning the failure to respond to the information request was similarly ignored until Scalise was visited by an EPA criminal investigator.

U.S. v. Seawitch Salvage, Inc. (District of Maryland): Kerry L. Ellis, Sr., president and owner of Seawitch Salvage, Inc., and Seawitch Salvage were convicted on seven felony counts on May 30, 1997, for violations of CAA, CWA, the Rivers and Harbors Act, and for making a false statement to a federal agency. The violations were committed while Seawitch was executing a contract with the U.S. Navy to demolish and scrap two vessels, the *USS Illusive*, a minesweeper, and the *USS Coral Sea*, an aircraft carrier. As a part of the contract, the defendants were required to properly remove asbestos and other hazardous materials from the ships prior to dismantling them. Between May 1993 and September 1995, Ellis and Seawitch directed their employees to remove material which contained asbestos from the ships; however, neither Ellis nor Seawitch was licensed to engage in asbestos abatement and removal activities. During the removal, workers were exposed to asbestos without protective equipment. In addition, Ellis submitted a false statement to the Defense Reutilization and Marketing Agency of the Department of Defense (DOD) concerning the removal of asbestos from the *Coral Sea*. Ellis and Seawitch were convicted of discharging oil, construction debris, paint chips, metal fragments, insulation materials, and other pollutants into the Patapsco River in violation of CWA and the Refuse Act.

U.S. v. Taylor (District of Oregon): On February 25, 1997, James Powell Taylor, the owner and operator of Continental Plating, Inc., was sentenced to five months in federal prison and was required to pay EPA cleanup costs in the amount of $45,000 for his guilty plea to felony charges for illegally transporting and storing hazardous wastes in violation of RCRA. Continental Plating, Inc., a Eugene, OR, electroplating business, ceased operations in 1984. After it closed, Taylor illegally transported and stored his electroplating chemicals, including two 1,000-gallon plating tanks containing plating chemicals, (i.e., arsenic, cyanide, chromium, and lead) at an outdoor facility in West Eugene.

U.S. v. Valverde (Central District of California): On March 3, 1997, Michael E. Valverde of Oceano, CA, a supervisor at the sewage treatment facility for the California Men's Colony in San Luis Obispo, CA, pleaded guilty to one count of violating CWA. In May 1996, Valverde discharged partially treated sewage into Chorro Creek, a tributary of the Morro Bay Estuary. Valverde also pleaded guilty to one count of falsifying water pollution monitoring records and reports that are required to be submitted to state and federal environmental protection agencies. Valverde faces a maximum of five years imprisonment and/or a maximum fine of $250,000 on each count.

U.S. v. Walls (District of Mississippi): Paul F. Walls, Sr., of Moss Point, MS, was sentenced to six years and six months in prison on July 7, 1997, for his conviction on 45 counts of knowingly spraying the pesticide methyl parathion without a license and three counts of illegally distributing methyl parathion in violation of FIFRA. This is the longest consecutive amount of prison time ever handed down in a case involving a strictly environmental violation. Walls did not possess a license for commercial pesticide application, and a Mississippi State Court ordered him to cease his commercial activities. A co-defendant, Dock Eatman, Sr., received a sentence of five years and three months for his conviction on 21 counts of illegal pesticide application. Trial testimony indicated that some people required medical attention as a result of Walls and Eatman's acts.

U.S. v. Warner Lambert (District of Puerto Rico): Warner Lambert, Inc., agreed to a fine of $3 million as a result of its guilty pleas to six felony counts of violating CWA. Warner Lambert manufactures pharmaceuticals and confectionary products at its Vega Baja, PR, facility. The company admitted that it knowingly failed to accurately report results of tests it performed on wastewater discharged from the Vega Baja facility's wastewater treatment plant. The

treatment plant's NPDES permit required monitoring of discharged wastewater for 34 pollutants and other effluent characteristics. However, in its monthly discharge monitoring reports from the mid-1980s to late 1992, Warner Lambert regularly failed to inform the Puerto Rican Environmental Quality Board and EPA of test results that indicated violations of its permit limits for up to seven pollutants each month.

U.S. v. Johnnie James Williams (Western District of Tennessee): On March 21, 1997, Johnnie James Williams of South Memphis, TN, was sentenced to 41 months imprisonment and two years of supervised release for his jury conviction on two felony counts of violating RCRA by illegally storing and disposing of hazardous waste in a South Memphis EJ neighborhood. Williams owned and operated W&R Drum, a drum recycling facility, from 1983 until July 1994 when EPA closed the site and began a Superfund cleanup. The cleanup, which cost taxpayers $1.5 million, found levels of heavy metals, acids, organic materials, and solvents that were as much as 2,000 times the regulatory limits. Williams stored explosive, toxic, and corrosive materials in over 1,000 drums and dumped an equal amount on his property, saturating the ground. In all, 10,000 tons of soil were replaced during the cleanup. This is the longest prison sentence handed down in an environmental case in Tennessee, and equals the longest incarceration sentence in any RCRA case in the U.S.

CERCLA

King Salmon (Alaska): On December 16, 1996, a CERCLA cleanup agreement was signed by the U.S. Air Force, the State of Alaska, and Region 10. The Air Force entered into the agreement pursuant to CERCLA §§104 and 120(a)(4). Alaska will be using its state authorities to provide oversight of activities and to enforce the agreement. EPA's role in the agreement is to provide technical assistance and to consult with Alaska and the Air Force on the implementation of the agreement. EPA has reserved its rights to require the Air Force to perform work at the site independent of this agreement. The purpose of the agreement is to provide a procedural framework and schedule for coordination and implementation of the selected interim remedial action at the site in accordance with CERCLA, the national contingency plan, applicable guidance and policy, and applicable state laws. King Salmon is an NPL caliber site that was not listed because the Governor of Alaska did not concur on the listing.

Naval Ammunition Depot (Nebraska): Ray Fatz, Acting Deputy Assistant Secretary of the Army, signed the Interagency Agreement for the U.S. Army Former Naval Ammunition Depot site located in Hastings, NE, after a period of re-negotiating to resolve remaining issues. The Hastings site was listed on the NPL in June 1986 (final). Groundwater and soil at the site have been contaminated with VOCs, heavy metals, and PAHs. Several cleanup actions have taken place while other long term cleanup actions are ongoing.

Oak Ridge Tennessee Reservation (Tennessee): Final agreement on a major modification to the Interagency Agreement (IAG) at the DOE's Oak Ridge Tennessee Reservation NPL site also was reached. The modification provides for rolling milestones and makes specific milestones more enforceable.

Old Navy Dump/Manchester Laboratory (Washington): On July 30, 1997, the CERCLA §120 IAG became effective upon signature by the regional administrator. The Old Navy Dump (Manchester Annex) site in Washington constitutes 39.50 acres of uplands and an unquantified amount of tidelands within Clam Bay. The site is a Formerly Utilized Defense Site (FUDS) being remediated by the U.S. Army Corps of Engineers under its FUDS program.

Paducah Gaseous Diffusion Plant (Kentucky): Region 4 reached agreement with DOE on cleanup of the NPL listed Paducah Gaseous Diffusion Plant, in Paducah, KY. The agreement anticipates completion of groundwater cleanup by the year 2010. The IAG was sent out for public comment during FY97. Region 4 and DOE are now in the process of finalizing the agreement.

Warren Air Force Base (Wyoming): Pursuant to the CERCLA Federal Facility Agreement (FFA) for F.E. Warren Air Force Base, Region 8 issued a Stop Work Order (SWO) requesting that work being done at OU-3, Landfill 6 be immediately stopped. The SWO may be the first issued to a federal facility pursuant to a FFA. The order was issued because F.E. Warren proceeded with construction of the compacted layer of the evapotranspiration (ET) cover prior to finalization of the ROD amendment changing the remedy from a RCRA Subtitle C cap to an ET cover. Although work on the EP cover has stopped, EPA and the State of Wyoming now are evaluating issues regarding winterization activities to control erosion of Landfill 6's surface during the winter season, and how this can be accomplished vis-a-vis the SWO and the FFA.

RCRA

Defense Depot (Tennessee): Region 4 filed a final order settling the RCRA case against DOD, Defense Logistics Agency (DLA), a military supply depot located in Memphis, TN. The order called for a penalty payment of $12,000. This action settled a September 1996 administrative complaint the region filed under RCRA §3008(a) against DLA, which alleged that the respondent stored containers of incompatible hazardous wastes next to each other without properly separating them in accordance with RCRA. The complaint assessed a penalty of $20,000, and ordered the facility to submit a plan within 30 days insuring that incompatible wastes were no longer stored together. The respondent submitted the required plan and provided the region with new information concerning the facility's

storage practices. Based on this new information, the penalty was reduced to $12,000.

Department of Veterans Affairs Medical Center (Connecticut): Region 1 reached settlement on March 31, 1997, with the Department of Veterans Affairs (VA) Medical Center in Westhaven, CT, on a complaint and compliance order under RCRA §3008(a). The penalty assessed in the final complaint was $82,375 and the settlement penalty was $61,550. The VA will pay $15,388 (25 percent) in cash and will perform SEPs costing some $48,000. Among the violations outlined in the CACO was the failure to make hazardous waste determinations. EPA inspectors found that the facility sent hazardous wastes off-site designated as non-hazardous wastes. The facility also failed to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents. EPA inspectors found containers holding both acids and caustics, which could result in heat generation and violent reaction if mixed together.

Fort Campbell (Kentucky/Tennessee): Region 4 settled a RCRA case, assessing a $36,000 penalty against the Fort Campbell Army base located on the Kentucky/Tennessee border. The Fort Campbell violations included: failure to make hazardous waste determination; failure to correctly label containers; failure to remove hazardous waste from satellite accumulation areas in a timely manner; and failure to maintain emergency equipment. The base is now in compliance with the order. The original penalty proposed in the September 1996 complaint was $48,700.

Naval Undersea Warfare Center (NUWC) (Connecticut): On September 18, 1996, NUWC of the Department of the Navy agreed to pay a $80,625 penalty to settle an EPA complaint alleging violations of federal and state hazardous waste management laws at three of its Connecticut locations--two in New London and one in East Lyme. NUWC researches and develops acoustic sensing devices for the Navy.

Region 1 and the Connecticut DEP jointly inspected the three NUWC facilities and discovered violations of RCRA. Region 1 prenegotiated a settlement for the RCRA violations observed at NUWC. On September 16, 1996, a complaint was filed simultaneously with a CACO which includes a monetary penalty of $80,625. NUWC failed to have a complete contingency plan for responding to an accidental hazardous waste spill; failed to properly train personnel; failed to determine if wastes were hazardous and therefore subject to federal management and handling laws; and failed to properly label hazardous waste containers at the facility.

United States Coast Guard (USCG) (Alaska): A CACO was signed by the Region 10 Administrator on January 23, 1997, for this Alaska facility, settling a complaint issued on July 12, 1994. The complaint sought over $1 million in penalties for violations of RCRA, including the failure to monitor groundwater and illegally burning waste piles of debris. A penalty of $602,260 has been agreed to for the specific violations alleged in the complaint. USCG Kodiak has fixed the groundwater monitoring system and has closed the waste piles, so no further injunctive relief is sought in the CACO.

U.S. Department of Interior, Bureau of Indian Affairs (California): In September 1997, EPA filed an administrative complaint against DOI, BIA, Hoopa Campus, CA, alleging RCRA hazardous waste violations and assessing $260,650 in penalties. The complaint alleges the BIA stored hazardous waste at a now-vacated campus facility without a permit and failed to have an EPA generator identification number. All waste has now been disposed of properly.

Washington Navy Yard (Washington, D.C.): On March 6, 1997, Region 3 and the Department of Navy signed a RCRA §7003 cleanup order for the Washington Navy Yard located at 9th and M Streets in southeast Washington, DC. The order is for a comprehensive hazardous waste cleanup at the installation to implement interim measures, further contamination investigations and corrective measures. The Navy Yard action is part of a continuing effort by Region 3 to conduct cleanup as part of the Anacostia River Initiative. Region 3 released a press announcement of this enforcement action on March 11, 1997.

SDWA

Redstone Arsenal (Alabama): In June 1997, Region 4 issued at unilateral compliance order against the U.S. Army Missile Command, Redstone Arsenal Water System, located near Huntsville, AL, for violations of SDWA and its implementing regulations. The system provides water to 22,000 individuals. The violations included exceeding the MCL for total coliform bacteria and failing to meet the total coliform monitoring/reporting requirements during all the months from January 1996 through April 1997. In addition, the system failed to provide notification to the public of the violations, as required. This is the first unilateral compliance order issued against a federal facility under authorities contained in the August 1996 revision to the SDWA.

TSCA

U.S. Navy PCB Containing Vessel: EPA successfully negotiated a high profile agreement involving the U.S. Navy, EPA, and Universal Studios. The agreement allowed the movement and filming of a Naval vessel known to contain PCBs, provided the agreement's environmental and public health requirements were met. The provisions of the agreement satisfied such diverse interests as EPA, the movie studio, the Navy, and environmentalists.

Agreement to Transfer Naval Boats, Support Craft and Industrial Equipment with PCBs to Communities for Further Use: The Federal Facilities Enforcement Office (FFEO) worked with the Navy in the development and execution of a compliance agreement addressing the transfer of vessels and industrial equipment at base closure sites. The agreement facilitates the transfer of vessels and equipment to local redevelopment authorities (LRAs) and local communities (LCs) for use in the economic development of their communities. The agreement requires the Navy to notify the vessel and equipment recipients of potential PCB contamination in the form of non-liquid PCBs, including a fact sheet, and requires that the recipients maintain the suspected PCBs in their place, except when normal maintenance requires their removal. The agreement provides a mechanism for LRAs and LCs to transfer vessels and equipment to third parties while still remaining responsible to reclaim the transferred vessels and equipment if the third party is violating any terms or conditions of the agreement. The agreement also provides for the Navy to be responsible for reclaiming vessels in the event of a third-party breach.

Navy Export Agreement: Following a series of meetings with the National Economic Council, the Office of Management and Budget, the Council on Environmental Quality and the Department of State, FFEO worked closely with OPPT in the negotiation of an agreement allowing the Navy to export vessels for scrapping overseas. These vessels may contain non-liquid PCBs in felt gaskets, wire cabling, paint, adhesives. The agreement requires that all transformers and large high and low voltage capacitors that contain dialectic fluids with PCBs in any concentrations and all hydraulic and heat transfer fluids containing PCBs be removed prior to export. Solid items containing PCBs are to be removed when these items are readily removable and their removal doesn't jeopardize the structural integrity of the vessel. The agreement requires annual notification to countries that are known to import ships for scrapping and follow up notice to each country in advance of receiving vessels. The final version of the National Defense Authorization Act for FY98 contains a reporting provision whereby EPA, the Navy, and the Maritime Administration are required to inform Congress regarding the implementation of this agreement.

Extension of Sinking Exercise Agreement (SINKEX): In response to a request from the Secretary of the Navy, FFEO developed conditions under which OECA could agree to extend the SINKEX agreement for another eight vessels. The existing agreement provided the Navy with the target practice and sinking of up to eight vessels, pursuant to all existing permits issued by EPA as well as the requirements of the agreement. Navy preparation for SINKEX includes the removal, to the maximum extent practicable, of all materials which may degrade the marine environment, including the emptying of fuel tanks, and fuel lines, flushing tanks and lines, removing from the hulls other pollutants and all readily detachable material capable of creating debris or contributing to chemical pollution. Removal of all transformers and capacitors containing three pounds or more of dielectric fluid is required, as well as reasonable efforts to remove capacitors containing less than three pounds of fluid, and the draining and flushing of hydraulic equipment and heat transfer equipment. Non-liquid PCBs which are not readily detachable or where removal may threaten the structural integrity of the vessel are not

required to be removed. The extension letter sets out requirements for additional milestones regarding the Navy's sunken vessel study, a risk assessment of environmental effects from sunken naval vessels. The goal is to determine if past/ continued SINKEX operations pose significant risk to the environment or human health via the food chain.

Implementation of the Minuteman II Compliance Agreement: As a result of the implementation of the EPA/U.S. Air Force (USAF) compliance agreement addressing Minuteman II missile silo implosions in support of the Strategic Arms Reduction Treaty (START), implosions have continued on track, while environmental requirements of the agreement are being met. Solid-matrix PCBs were a component in the weatherproofing on missile silos and support buildings as well as a rust-proofing agent, along with asbestos on underground storage tanks. Under the agreement, the implosions almost are complete and groundwater monitoring plans have been developed for both Whiteman and Ellsworth Air Force Base. A Hardened Intersite Cable System (HICS) Sampling Plan was developed, followed by the HICS Draft Environmental Baseline Survey. Preliminary draft Prototype Environmental Baseline Surveys (EBS) have been developed for a launch control facility and a launch facility. These EBS will serve as a model for each type of facility. USTs sold to area landowners were recovered for TSCA landfill disposal. The State of Missouri executed their own state annex of distinct state requirements in addition to the provisions in the EPA/USAF compliance agreement.

Implementation and Modification of TSCA, Federal Facility Compliance Agreement (FFCA) for the Uranium Enrichment Operations at DOE's Gaseous Diffusion Process Facilities: Portsmouth, OH; Paducah, KY; and Oak Ridge, TN; and Execution of the Oak Ridge Reservation Polychlorinated Biphenyls Federal Facilities Compliance Agreement (ORR-PCB-FFCA): The TSCA FFCA was modified to revise the requirements of the PCB gasket/duct removal program, changing the initiation date to coincide with decontamination & decommissioning (D&D) for Portsmouth, OH, and Paducah, KY. The D&D cost of each plant is estimated at $3 billion; an additional $450-600 million would be required to remove these gaskets prior to D&D. Since the gaskets are troughed for PCB collection and air sampling has been within acceptable limits, deferring this removal activity is desirable in light of radiological and industrial risks. Deferral of removal of the Paducah building C-340 hydraulic systems until D&D of the building was also approved for a $2-3 million savings and a decrease in radiological and industrial risks. The modification officially severed the K-25 uranium enrichment facility from the TSCA FFCA, since K-25 now falls under the December 16, 1996, Oak Ridge, TN, agreement. Sixteen thousand troughs have been installed at Paducah under the motor exhaust duct gaskets. In addition, nearly 700,000 kilograms (kg) of PCB waste, including more than 6,500 capacitors, have been disposed. Portsmouth has disposed of 487,000 kg of PCB-contaminated lube oil and retro filled and reclassified eight PCB-contaminated lube oil systems. An additional 459,000 kg of PCB liquid waste from Portsmouth have been disposed of at the Oak Ridge TSCA incinerator, and more than 16,000 motor exhaust duct flanges have been troughed. The K-25 site disposed of over 124,000 gallons of askerel fluid. FFEO continues implementation of the agreement including annual meetings in which the progress reports are reviewed.

Museum Transfer Ships: FFEO has been coordinating with Region 9 concerning the placement of the *USS Hornet* as a museum in Alameda, CA. FFEO continues to provide on-going counsel to regional PCB coordinators in jurisdictions where former Naval aircraft carriers and similar vessels are donated to a city for display as a museum. The first agreements used to transfer the *USS Lexington* to Corpus Christi, TX, and continued use of the vessel as a museum have been used as a model by Region I in the transfer of the *USS Salem*. The agreements concern the transfer, continued use and ultimate disposal of these vessels with unauthorized non-liquid PCBs, where removal of the PCBs would not be feasible.